

OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 21

In the Matter of:

UNF West Inc.,

Case No. 21-CA-129446

and

Teamsters, Chauffeurs,  
Warehousemen, Industrial and  
Allied Workers of America,  
Local 166, International  
Brotherhood of Teamsters

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Place: Moreno Valley, California

Dates: April 14, 2015

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21

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In the Matter of:

UNF WEST INC.,

and

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN, INDUSTRIAL AND  
ALLIED WORKERS OF AMERICA,  
LOCAL 166, INTERNATIONAL  
BROTHERS OF TEAMSTERS

---

Case No. 21-CA-129446

The above-entitled matter came on for hearing, pursuant to notice, before **JOHN J. MCCARRICK**, Administrative Law Judge, at 12631 Memorial Way, Moreno Valley, California 92553, on **Tuesday, April 14, 2015, at 9:33 a.m.**

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# I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Armando Perez Aceves	22	35	45/47		
Lino Contreras	49	63	73		
Juan A. Urquiza	75	85			
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E X H I B I T S

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1                                    P R O C E E D I N G S

2            JUDGE MCCARRICK: This is a formal trial before the  
3 National Labor Relations Board in the matter of UNF West Inc.  
4 and Teamsters Chauffeurs, Warehousemen, Industrial, and Allied  
5 Workers of America, Local 166, International Brotherhood of  
6 Teamsters, case 21-CA-129446. I am John McCarrick, the  
7 Administrative Law Judge presiding.

8            Will counsel and any other representatives of the parties  
9 state their appearances for the record, starting with Counsel  
10 for the General Counsel?

11           MR. RIMBACH: Thomas Rimbach, counsel for the General  
12 Counsel

13           MS. VALENTINE: Cecilia Valentine, counsel for the General  
14 Counsel.

15           MS. LEE: Good morning, Your Honor. Shirley Lee, counsel  
16 for International Brotherhood of Teamsters, Local 166.

17           JUDGE MCCARRICK: All right. And for the Respondent?

18           MR. TOPOLSKI: Douglas Topolski, Ogletree Deakins, counsel  
19 for UNF West.

20           JUDGE MCCARRICK: Okay.

21           MR. ADLONG: Daniel Adlong, Ogletree Deakins, counsel for  
22 UNF West.

23           JUDGE MCCARRICK: Would you spell your last name, sir?

24           MR. ADLONG: A-D-L-O-N-G.

25           JUDGE MCCARRICK: All right.

1 MR. LEITZES: Nicholas Leitzes, Assistant General Counsel  
2 and UNFI, counsel for UNF West.

3 JUDGE MCCARRICK: And would you spell your last name, sir?

4 MR. LEITZES: L-E-I-T-Z-E-S.

5 JUDGE MCCARRICK: Very good. Any other appearances? All  
6 right. I assume that the union representative is not going to  
7 make a formal appearance for the record.

8 MS. LEE: No, Your Honor.

9 JUDGE MCCARRICK: All right. Let's get the formal  
10 documents in the record. Why don't you go ahead and describe  
11 those, Mr. Rimbach.

12 MR. RIMBACH: Okay. At this time, I would like to offer  
13 into evidence the formal papers as General Counsel's Exhibits  
14 1(a) through 1(n), 1(n) being an index and description of the  
15 entire exhibit. This exhibit has already been shown to all  
16 parties. General Counsel now offers these formal papers into  
17 evidence.

18 JUDGE MCCARRICK: Okay. Just go ahead and give copies of  
19 those to the reporter. Has everybody had a chance to look at  
20 the exhibits, formal exhibits?

21 MR. TOPOLSKI: No objection, Your Honor.

22 JUDGE MCCARRICK: All right. General Counsel's 1(a)  
23 through (n) is received.

24 **(General Counsel Exhibit Number 1(a) through 1(n) Received into**  
25 **Evidence)**

1 JUDGE MCCARRICK: We talked about a preliminary matter,  
2 some stipulations, and I think we need to get copies. But  
3 would you go ahead and describe what that stipulation consists  
4 of?

5 MR. RIMBACH: Yes, Your Honor. Prior to going on the  
6 record, the parties discussed a stipulation with respect to  
7 jurisdiction, as well as labor organization status, as well as  
8 the agency status of three labor consultants, Juan Negroni,  
9 Carlos Ortiz, and Luisa Perez. All the parties have signed the  
10 stipulation.

11 JUDGE MCCARRICK: All right. Is there any objection to  
12 the receipt of the stipulation that's been signed?

13 MR. TOPOLSKI: No objection, Your Honor.

14 MS. LEE: No objection, Your Honor.

15 MR. RIMBACH: I'd like to move into evidence Joint Exhibit  
16 1.

17 JUDGE MCCARRICK: Joint 1 is received.

18 **(Joint Exhibit Number 1 Received into Evidence)**

19 JUDGE MCCARRICK: And you need to make copies of that?

20 MR. RIMBACH: Yes, Your Honor.

21 JUDGE MCCARRICK: All right. I'll note that here, copies.  
22 Okay. Any other preliminary matters? Any requests for  
23 sequestration?

24 MR. RIMBACH: Yes, Your Honor. I would like to make a  
25 motion to sequester any witnesses?



1 JUDGE MCCARRICK: Any objection to that?

2 MR. TOPOLSKI: No objection.

3 JUDGE MCCARRICK: All right. A sequestration order will  
4 be issued in this proceeding. And that means that all persons  
5 who are expected to be called as witnesses in this proceeding,  
6 other than the person designated as essential to the  
7 presentation of a party's cases, will be required to remain  
8 outside the courtroom whenever testimony or other proceedings  
9 are taking place. A limited exception applies to witnesses who  
10 are alleged discriminatees. We don't have any discriminatees  
11 in this case.

12 The sequestration order prohibits all witnesses from  
13 discussing with any other witness or any possible witness  
14 testimony he or she has already given or will give. And  
15 likewise, the counsel for a party may not disclose to any  
16 witness the testimony of any other witness, with the exception  
17 counsel may inform his or her own witnesses of the content of  
18 testimony given by any opposing party's witness to prepare to  
19 rebut the witness testimony.

20 It is the responsibility of the counsel to see that they  
21 and all their witnesses comply with the sequestration order.  
22 And we have no -- well, we have one potential witness. Let's  
23 get essential parties designated at this time.

24 For General Counsel.

25 MR. RIMBACH: We have either Ruben Luna or -- sorry. I'll

1 defer to Union's attorney.

2 MS. LEE: Union representative Ruben Luna will be here  
3 this morning as well as Union representative Sal Abrica. We  
4 don't anticipate that neither of those individuals would be  
5 testifying today.

6 JUDGE MCCARRICK: All right. But I think we -- one at a  
7 time. Is one going to substitute for the other at some point  
8 in time?

9 MS. LEE: Mr. Luna will be leaving at 11 a.m.

10 JUDGE MCCARRICK: All right. Then let's -- we'll have one  
11 at a time --

12 MS. LEE: Okay.

13 JUDGE MCCARRICK: -- performing that function. I don't  
14 want both of them consulting with counsel during the course of  
15 the hearing.

16 JUDGE MCCARRICK: For the Respondent.

17 MR. TOPOLSKI: We are going to have Ms. Anne Thumann  
18 today. She will testify, but she is not going to testify as to  
19 any of the actual substance of the allegations. She's going to  
20 testify to more background kind of stuff, so the record is  
21 complete. So -- and then tomorrow, I'm not sure who's going to  
22 be designated, but that person will not testify.

23 JUDGE MCCARRICK: Okay, very good. And that -- the  
24 designated representative is in the hearing room --

25 MR. TOPOLSKI: Correct.

1 JUDGE MCCARRICK: -- at this time?

2 MR. TOPOLSKI: Correct.

3 JUDGE MCCARRICK: All right. Did you want to get the  
4 Union rep --

5 MS. LEE: Yes.

6 JUDGE MCCARRICK: -- at this time?

7 MS. LEE: Yes.

8 JUDGE MCCARRICK: All right. Let's go off the record.  
9 (Off the record at 9:39 a.m.)

10 MR. RIMBACH: Your Honor, just as another preliminary  
11 matter, Respondent provided -- or signed the stipulation. And  
12 so, General Counsel would like to withdraw subpoena requests  
13 paragraphs 1 through 6, relating to agency status of the three  
14 labor consultants at issue. Also, we received certain  
15 documents that were responsive to subpoena request paragraphs 7  
16 and 8. I would just like to confirm on the record with  
17 Respondent's counsel that all the documents that are responsive  
18 to those paragraphs were provided?

19 MR. TOPOLSKI: Yes, they were.

20 JUDGE MCCARRICK: All right.

21 MR. RIMBACH: And that's all.

22 JUDGE MCCARRICK: All right. Anything else of a  
23 preliminary matter? No.

24 Do you wish to make an opening statement?

25 MR. RIMBACH: Yes, Your Honor.

1 JUDGE MCCARRICK: Go ahead.

2 MR. RIMBACH: Thank you. Your Honor, it is important to  
3 understand the background of this case. Respondent UNF West  
4 Inc. is a distributor of natural organic and specialty foods  
5 that operates a warehouse facility and distribution center in  
6 Moreno Valley, California.

7 In early 2012, the Teamsters Local 166 attempted to  
8 organize the warehouse employees working at Respondent's Moreno  
9 Valley facility. On May 17th, 2012, a representation election  
10 was conducted by Region 21 at this facility. The Union lost.  
11 The Union filed timely objections to the conduct of the  
12 election. These objections were consolidated by the Regional  
13 Director with an unfair labor practice complaint and was set  
14 for a hearing before an Administrative Law Judge.

15 On September 3rd, 2014, the Board affirmed ALJ William  
16 Schmidt's rulings, findings, and conclusions, and adopted his  
17 recommended order in a published decision in that case. The  
18 Board's decision affirmed that Respondent --

19 JUDGE MCCARRICK: Do you have the citation to that  
20 decision?

21 MR. RIMBACH: Yes, Your Honor. It's 361 NLRB Number 42 --

22 JUDGE MCCARRICK: Okay.

23 MR. RIMBACH: -- (2014).

24 JUDGE MCCARRICK: All right, go ahead.

25 MR. RIMBACH: The Board's decision affirmed that

1 Respondent, by its supervisors, violated the National Labor  
2 Relations Act in five ways:

3 One, coercively questioning an employee;

4 Two, by warning an employee that it would not negotiate or  
5 sign any contract with the Union;

6 Three, by warning an employee that all workers could lose  
7 benefits if they selected union representation for;

8 Four, by warning an employee that management was looking  
9 for a way to fire him; and,

10 Five, by implying warning an employee that his working  
11 conditions would not improve unless he stopped complaining to  
12 the Union and to the Labor Board.

13 On April 10th, 2014, the Union withdrew its objections to  
14 the election. And on April 16th, 2014, the Union filed a new  
15 petition to represent the same warehouse workers employed by  
16 the Respondent.

17 An election was then scheduled for May 29th, 2014.  
18 However, on May 28th, the Regional Director issued an order  
19 cancelling and indefinitely postponing the election after  
20 Teamsters Local 166 filed unfair labor practice charges,  
21 including the one at issue in the instant case.

22 Your Honor, the Employer has continued to engage in the  
23 same unlawful conduct. The evidence in this instant case is  
24 straightforward. The Respondent is a recidivist employer now  
25 with a history of coercively questioning and threatening

1 employees with the aim of defeating any employee efforts at  
2 unionization. The evidence will show that, in the weeks prior  
3 to the election for representation scheduled for May 29th,  
4 2014, Respondent's labor consultants approached employees  
5 individually to coercively interrogate them about their union  
6 sympathies and to threaten them by suggesting that it would be  
7 futile to assert their rights under the act.

8 Specifically, the evidence will show that, on about May  
9 9th, 2014, Labor Consultant Juan Negroni approached an  
10 employee, a known union supporter interrogated him about this  
11 union sympathies. After that employee advised Negroni of his §  
12 7 rights, Negroni threatened the employee by telling him it was  
13 futile to assert those rights.

14 The evidence will further show that, on about May 22nd,  
15 2014, Negroni approached a second employee, also a known union  
16 supporter, and similarly interrogated him regarding his union  
17 sympathies. Negroni further told him it was futile to assert  
18 these rights under the Act. Finally, the evidence will show  
19 that, on about May 16th, 2014, another labor consultant, Carlos  
20 Ortiz, threatened employees with reduction in their wages if  
21 the Union won the election, which was, at that point, less than  
22 two weeks ago.

23 The General Counsel will show that by engaging in these  
24 acts, Respondent has shown a pattern of engaging in unfair  
25 labor practice violations in complete disregard for employee's

1 § 7 rights. Respondent cannot avoid liability under the Act by  
2 using labor consultants to interrogate and threaten employees.  
3 The General Counsel asks that Your Honor grant the requested  
4 relief, including a board notice that is read to employees  
5 during the working time, in English and Spanish, by Respondent,  
6 as Respondent has continue to flaunt the Act.

7 Your Honor, I have copies of several documents related to  
8 the Board decision and the petition that I just referred to.  
9 Would you like General Counsel to enter these exhibits -- or  
10 these documents into evidence as exhibits or would you like to  
11 take judicial notice?

12 JUDGE MCCARRICK: I assume they're referred to in the  
13 Board decision and the Judge's decision.

14 MR. TOPOLSKI: Your Honor.

15 JUDGE MCCARRICK: At least the initial case.

16 MR. TOPOLSKI: You know, it's funny. That's exactly the  
17 kinds of things I was going to have Ms. Thumann testify about.  
18 So I think maybe, in a off-the-record discussion, if the first  
19 party wants to take a look at them --

20 MR. RIMBACH: Okay.

21 MR. TOPOLSKI: And I think we'll probably be able to  
22 introduce a lot of that stuff in.

23 JUDGE MCCARRICK: That'd be fine.

24 MR. TOPOLSKI: And then maybe again in --

25 JUDGE MCCARRICK: That'd be fine.

1 MR. TOPOLSKI: -- for --

2 JUDGE MCCARRICK: The early stuff, I'm going to assume  
3 it's all covered in either Judge Schmidt's decision or the  
4 Board's decision. The later stuff, obviously, you may want to  
5 offer or -- by stipulation, if you can do that. Yeah, that'd  
6 be fine.

7 MR. RIMBACH: Yes, Your Honor. Thank you.

8 JUDGE MCCARRICK: Okay. Anything else?

9 MS. LEE: No, Your Honor.

10 MR. RIMBACH: No, Your Honor.

11 JUDGE MCCARRICK: Okay. Does the Union wish to make a  
12 statement?

13 MS. LEE: I'll just make a very brief statement. I just  
14 want to echo the counsel for General Counsel's opening  
15 statement. This is an employer who has engaged in a pattern  
16 and practice of stymying the Section 7 rights of employees.  
17 The Union attempted to first start organizing the employees at  
18 the Employer's Moreno Valley site back in 2012. And what the  
19 evidence will show -- what the -- what, first, ALJ decision  
20 will show -- and Your Honor is right that it contains many of  
21 the specific allegations which are very similar to the unfair  
22 labor practice allegations we're going to be hearing today,  
23 coercing employees, threatening employees, threatening  
24 employees with the loss of benefits. This is an employer who  
25 merely finds ALJ's decisions and the Section 7 rights of



1 employees not to exist. They don't really care.

2 MR. TOPOLSKI: Your Honor, I have to --

3 MS. LEE: And --

4 MR. TOPOLSKI: I hate to objection in opening statement,  
5 but this sounds like argument and not an -- preview of the  
6 evidence.

7 JUDGE MCCARRICK: Indeed. It seems to be the case. You  
8 can argue that in the brief.

9 MS. LEE: Okay. But I also just want to set forth the  
10 fact that -- and just emphasize that the reason why the Union  
11 asked for the reading remedy is because the Employer has  
12 engaged over and over again in these unfair labor practices.  
13 Thank you, Your Honor.

14 JUDGE MCCARRICK: Okay. Do you wish to make an opening  
15 statement now or you want to reserve it?

16 MR. TOPOLSKI: I'll do it now. I think it's important.  
17 Your Honor, this is a class case of a union that simply won't  
18 take no for an answer. It's interesting that the General  
19 Counsel and the Union talk about the past, because we think  
20 it's significant as well.

21 There was, indeed, a campaign in April and May of 2012 and  
22 an election on May 17, 2012, in the case number we refer to in  
23 the documents. The Union lost that vote by a two to one  
24 margin. They did file timely objections. And interestingly  
25 enough, it took a year to bring those objections to a hearing.

1 It took almost another year to the day for this union to  
2 withdraw those objections, by the way, Your Honor. They  
3 litigated them, but they withdrew them. There was no decision  
4 on the objections. All right. So they withdrew the  
5 objections. They filed another petition in April of 2014, two  
6 days after the results of the first election was certified, the  
7 two to one loss.

8       Thereafter, another campaign was, indeed, conducted. And  
9 on May 27th, the instant matter was filed along with another  
10 unfair labor practice, the allegations of all of which were  
11 dismissed. All right. These are not the only allegations made  
12 in the instant matter. There were several other allegations  
13 made as well. In every single case where objective evidence  
14 could be shown, the Union's claims have failed, every case.  
15 The only claims that survive are these kinds of one-off he said  
16 she said allegations like we're looking at today. I think it's  
17 important to know that the current -- that the past decision is  
18 currently on appeal before the D.C. circuit. And oral argument  
19 has not yet been scheduled, but briefs have been filed in that  
20 matter. So to say that matter is concluded simply is not the  
21 case. Number two --

22       JUDGE MCCARRICK: Yeah. Well, I assume -- the previous  
23 case is (a) (1)?

24       MR. TOPOLSKI: Yes.

25       JUDGE MCCARRICK: And it's based on creditability?

1 MR. TOPOLSKI: Yes.

2 JUDGE MCCARRICK: The likelihood of a court of appeals  
3 setting aside a hearing judge's credibility findings are pretty  
4 remote.

5 MR. TOPOLSKI: Well, Your Honor, in this particular case,  
6 this is not a standard drywall case. It's a universal camera  
7 case. And there was a great wealth of evidence in that case  
8 that was never even discussed, much less considered. So we  
9 think we have a pretty good chance of having that case at least  
10 remanded.

11 So having said all that though, here we are again. All  
12 right. And if you take a look at the three allegations, the  
13 four allegations in the complaint, you'll begin to see the  
14 pattern that this union uses. They were about to lose another  
15 election. That's pretty clear. Two days before the election,  
16 they file this host of unfair labor practice charges.

17 And take a look at the allegations they're making. They  
18 are claiming that experienced labor consultants with scores of  
19 years of experience pick out known union supporters and then  
20 ask them about their sentiments about the Union. The very  
21 allegation defies common sense. The facts are even worse. For  
22 example, the evidence is going to show that, on May 9, Mr.  
23 Negroni wasn't even in the warehouse. So he couldn't have  
24 interrogated anybody or claimed that the joining union was  
25 field -- because he wasn't in the warehouse where the

1   allegations were alleged to have taken place.

2           With respect to the May 16th allegations concerning Mr.  
3   Carlos Ortiz, the evidence will show, by PowerPoint slides  
4   given at that meeting, that the allegation of alleged loss of  
5   wages was not made by the Employer. It was made by the Union.  
6   And the Employer responded immediately with a slide, in  
7   writing, that said no one is authorized to tell any associate  
8   that they will lose wages if the Union comes in. That's in  
9   black and white, and that was said at the meeting. That cannot  
10  be denied.

11          With respect to the allegation on May 22nd, once again,  
12  we've experienced labor consultant being accused of asking a  
13  known union supporter if he was in favor of the Union. It just  
14  defies common sense, Your Honor. It simply defies common  
15  sense. And these consultants were hired specifically so that  
16  we would not be sitting where we are today.

17          So, at the end of the day, what we're going to find is  
18  that we've got another situation where this union has filed a  
19  blocking charge to delay another defeat. And we've got a group  
20  of employees sitting five minutes from here who have been in  
21  laboratory or sterile conditions, with the exception of two  
22  days, for all but three years. And we believe that needs to  
23  stop. We believe that the allegations should be rejected, that  
24  the complaint should be dismissed, and that the election should  
25  be conducted, so that the employees have the ability to state

1 their beliefs by secret ballot. We'll say one more thing. The  
2 evidence is going to show that the employees were so outraged  
3 by the nature of the Union's allegations that they signed a  
4 petition; 180 people signed a petition in a unit of about 230,  
5 sent it to the Union and said we don't want you, leave us  
6 alone. That's where we are, Your Honor. Those are the facts.  
7 Thank you.

8 JUDGE MCCARRICK: Okay. All right. Who would you call as  
9 your first witness.

10 MS. VALENTINE: General Counsel calls Armando Perez  
11 Aceves.

12 JUDGE MCCARRICK: And this witness will need assistance  
13 of --

14 MS. VALENTINE: Translator, yes.

15 JUDGE MCCARRICK: -- translator? Let me -- why don't you  
16 have a seat, sir?

17 Let me swear the interpreter first.

18 (Interpreter sworn)

19 JUDGE MCCARRICK: Ma'am, let me just ask a few preliminary  
20 questions here to get your qualifications. How did you acquire  
21 your knowledge of the Spanish and English languages?

22 THE INTERPRETER: I was born in Mexico. So Spanish is my  
23 first language. And I came here when I was 25, and I've gone  
24 to college. I have an AA in interpretation, an AS in community  
25 interpretation. And I've gone to Southern California School of

1 Interpretation.

2 JUDGE MCCARRICK: Do you have any certifications in terms  
3 of your interpreting skills?

4 THE INTERPRETER: Yes.

5 JUDGE MCCARRICK: And what are those?

6 THE INTERPRETER: Like I said, AA in interpretation and an  
7 AS in community interpretation. And I have several  
8 certificates from Southern California School of Interpretation.

9 JUDGE MCCARRICK: Very good. Have you interpreted in NLRB  
10 hearings in the past?

11 THE INTERPRETER: Yes, sir.

12 JUDGE MCCARRICK: All right. I'm satisfied with the  
13 qualifications of the translator. Does anybody else wish to  
14 question her as to her qualifications?

15 MR. TOPOLSKI: No objection, Your Honor.

16 JUDGE MCCARRICK: All right, very good.

17 Then, Ms. Rosas, let's swear the witness.

18 MR. PEREZ ACEVES: Do I have to stand up?

19 JUDGE MCCARRICK: Please.

20 Whereupon,

21 **ARMANDO PEREZ ACEVES**

22 having been first duly sworn, was called as a witness herein  
23 and was examined and testified, by and through an interpreter  
24 as follows:

25 JUDGE MCCARRICK: Please be seated.

1 THE WITNESS: Thank you.

2 JUDGE MCCARRICK: Sir, you speak some English?

3 THE WITNESS: A little.

4 JUDGE MCCARRICK: All right. What I've asked you to do --  
5 you may understand some of the questions in English. But I'd  
6 ask you to wait until Ms. Rosas completes her translation into  
7 Spanish before you respond.

8 THE WITNESS: Yes.

9 JUDGE MCCARRICK: And I'd ask counsel also to try to break  
10 your questions up, so that Ms. Rosas is able to fully  
11 interpret. If you have a very long question, you may want to  
12 break it into segments, so that it's easier for Ms. Rosas to  
13 get the full meaning of your question. All right.

14 MS. VALENTINE: Thank you, Your Honor.

15 JUDGE MCCARRICK: Go ahead.

16 **DIRECT EXAMINATION**

17 Q BY MS. VALENTINE: Good morning, Mr. Perez. Thank you for  
18 being here.

19 JUDGE MCCARRICK: Again, let me get the witness name.

20 THE WITNESS: Armando Perez Aceves.

21 JUDGE MCCARRICK: Could you spell the last name?

22 THE WITNESS: Perez or Aceves.

23 JUDGE MCCARRICK: Aceves.

24 THE WITNESS: A-C-E-V-, as in Victor, E-S.

25 JUDGE MCCARRICK: Let's do the whole thing.

1 THE INTERPRETER: A-C-E-V-E-S.

2 JUDGE MCCARRICK: Aceves. Very good.

3 All right. Go ahead, Ms. Valentine.

4 MS. VALENTINE: Thank you.

5 Q BY MS. VALENTINE: Again, good morning. Are you presently  
6 employed?

7 A No. I'm disabled.

8 Q Where were you last employed?

9 A In Unified.

10 Q And when did you -- that's the Respondent, United -- UNF  
11 West Incorporated, UNFI?

12 A Yes.

13 Q When did you start working for UNFI?

14 A May 27, 2008.

15 Q And what was your job title with UNFI?

16 JUDGE MCCARRICK: And when did you stop working?

17 MS. VALENTINE: I'll get -- go ahead. Sorry.

18 JUDGE MCCARRICK: I'd rather get that upfront.

19 MS. VALENTINE: Okay.

20 THE WITNESS: I got disabled on July 23rd, last year.

21 JUDGE MCCARRICK: Go ahead.

22 MS. VALENTINE: Thank you.

23 Q BY MS. VALENTINE: And what was your job title with UNFI?

24 THE INTERPRETER: May the interpreter repeat?

25 JUDGE MCCARRICK: Yes.



1 THE WITNESS: I drive. I stand up. And I pull out orders  
2 that the screen shows me.

3 Q BY MS. VALENTINE: Is that considered box stacker?

4 A Yes, that's what it is, a box stacker.

5 Q And what were you -- okay. And what shift did you work?

6 A I started 7 at night, and I finish at 3 a.m. in the  
7 morning.

8 Q What shift was that?

9 A The third shift.

10 Q Did a union represent the employees while you were  
11 employed at UNFI?

12 A No, they didn't have any. There's none yet.

13 Q Was there an effort among employees to join a union at  
14 UNFI while you were working there?

15 A Yes.

16 Q And what's the name of that union?

17 A Teamsters Local 166.

18 Q Were you involved in the effort among the employees to  
19 join a union at UNFI?

20 A Yes.

21 Q And when did you become involved with those efforts?

22 A Since the beginning.

23 Q And about -- do you recall what year that was?

24 A Maybe like four years ago, something like that. I don't  
25 remember. Ever since the beginning.

1 Q Okay. And how were you involved in the effort -- in those  
2 efforts?

3 A Helping passing cards, giving information, trying to help  
4 them understand the benefits, so they could -- that could help  
5 us.

6 Q And were there any union meetings that you attended?

7 A Yes.

8 Q Have you ever held a position with the Union?

9 A No, not yet. No.

10 Q And the Judge asked you when you stopped working for the  
11 Employer. Was that July 23rd, 2014?

12 A Yes. I started at lunchtime, in July 23rd, at nighttime.  
13 And I left on the 23rd at 3:00 in the morning.

14 Q And why was that your last day of work?

15 A I suffered an accident on May 9th -- no, I'm sorry, June  
16 9th. And I was going to the doctor's appointments.

17 MR. TOPOLSKI: Objection, relevance.

18 JUDGE MCCARRICK: I think it's just background. I'll  
19 allow it to stand.

20 Q BY MS. VALENTINE: Okay. Let me just ask. Let me be just  
21 sort of -- ask a more narrow question. Was there something  
22 that happened that particular day that resulted in you not  
23 returning to work?

24 A Yes.

25 Q What was that?

1     A     Since more than 30 days have gone by, and I wasn't  
2     receiving any therapy or anything at the clinic where I was --  
3     where they were taking care of me, the letter that I received  
4     from workmen's compensation, it says -- it describes right  
5     there that, after 30 days, I have the right to see another  
6     doctor. And that's exactly what I did.

7           MR. TOPOLSKI: Objection.

8           JUDGE MCCARRICK: Yeah. This is not an issue in this  
9     case.

10          MS. VALENTINE: No, but -- okay.

11          JUDGE MCCARRICK: Let's just move on.

12          MS. VALENTINE: Sure.

13          JUDGE MCCARRICK: The witness testified he's disabled.  
14     That's why he's no longer working. That's fine.

15          MS. VALENTINE: Sure.

16     Q     BY MS. VALENTINE: Did you resign your employment or were  
17     you terminated? How did you find out that you --

18          JUDGE MCCARRICK: Let --

19          MS. VALENTINE: Sorry. Sorry.

20          THE WITNESS: No. I was terminated on February 16, this  
21     last one.

22     Q     BY MS. VALENTINE: How did you find out that you were  
23     terminated?

24          MR. TOPOLSKI: Objection again. I don't know where we're  
25     going with this, Your Honor.

1 JUDGE MCCARRICK: It may go to credibility. I don't know,  
2 but it certainly --

3 MS. VALENTINE: Very brief.

4 JUDGE MCCARRICK: It certainly would cut in Respondent's  
5 favor in that regard. I'm not sure what the point is here.

6 MS. VALENTINE: Just establishing the reason that he's no  
7 longer working there.

8 JUDGE MCCARRICK: Is it relevant to the issues? Is there  
9 any credibility issue?

10 MS. VALENTINE: Well, these are 8(a)(1) allegations, so I  
11 think so.

12 JUDGE MCCARRICK: I mean is there any issue about where  
13 the Respondent is going to argue that he might have some axe to  
14 grind against them --

15 MS. VALENTINE: I don't --

16 JUDGE MCCARRICK: -- because of his work status?

17 MR. TOPOLSKI: I don't think so, Your Honor. I mean, like  
18 I said, I don't even know what he's going to testify to yet.

19 MS. VALENTINE: Okay.

20 MR. TOPOLSKI: But, you know, it's my understanding he's  
21 out on disability. He got a disability settlement. He's no  
22 longer employed, period. And I don't see how it's relevant.

23 JUDGE MCCARRICK: Only if it goes to credibility of the  
24 witness, if he has some -- if there's some argument that he may  
25 have an axe to grind.

1 MR. TOPOLSKI: In which case, you're right. That would  
2 support our case not theirs. So --

3 JUDGE MCCARRICK: Yeah. So I don't know what the point of  
4 all this testimony is.

5 MS. VALENTINE: Okay. Well, I intended it to be very,  
6 very brief and --

7 JUDGE MCCARRICK: Let's just move on.

8 MS. VALENTINE: -- just to --

9 JUDGE MCCARRICK: Let's just move on. The witness has  
10 testified that he's disabled. And that's why he stopped  
11 working, apparently. The testimony is he stopped working in  
12 July of 2014.

13 MS. VALENTINE: Right.

14 MR. TOPOLSKI: That's what I have.

15 MS. VALENTINE: Can I confer with counsel for just a  
16 moment?

17 (Counsel confer)

18 MS. VALENTINE: All right, Your Honor. I'll move on.  
19 Just -- I don't know what questions Respondent will ask on  
20 cross-examination, and there were some issues that I did want  
21 to raise in my direct, in anticipation of what he might say.  
22 And so, I guess I -- issues going to credibility. So that was  
23 what I was going after. It sort of got a little bit more drawn  
24 out than I intended.

25 JUDGE MCCARRICK: Well, you still have a chance to

1     redirect if there's --

2             MS. VALENTINE:   Sure.   Sure, absolutely.

3             JUDGE MCCARRICK:  -- if something is raised.   Let's not  
4     speculate --

5             MS. VALENTINE:   Sure.

6             JUDGE MCCARRICK:  -- of what might happen.

7             MS. VALENTINE:   Sure.   I just -- you know, I --

8             JUDGE MCCARRICK:  You have an opportunity to redirect.

9             MS. VALENTINE:   Okay.   Then I'll do that vigorously, if  
10    need be.   Moving along.

11    Q       BY MS. VALENTINE:  Do you know who Juan Negrone is?

12    A       Yes.

13    Q       Who is he?

14    A       It's a person that was hired by the company to do -- well,  
15    to talk bad about the Union in meetings.

16    Q       And do you know what his specific role was or his job?

17    A       His?

18    Q       Yes.

19    A       Well, on every meeting that we had in Spanish, he would  
20    give a speech and he would always talk bad about the Union.  
21    That was his job.

22    Q       And did he introduce himself to you?

23             JUDGE MCCARRICK:  Sir, that just calls for a yes or no  
24    answer.

25             THE WITNESS:    Could you ask the question, please?

1 Q BY MS. VALENTINE: Sure. Did he introduce himself to you?

2 A No.

3 Q Did you attend -- you said that -- okay. You said that he  
4 held meetings?

5 A Yes, along with the other people.

6 Q And you had -- about how many of these meetings did you  
7 attend?

8 A All of the ones that my name was called, in Spanish, I  
9 went.

10 Q And about how many meetings was that?

11 A Four, five, six. I don't remember exactly.

12 Q And did you ever -- did Mr. Negroni ever speak to you one-  
13 on-one?

14 A Once.

15 Q And where did that take place?

16 A At the park at my working area.

17 Q And do you recall approximately when this happened, what  
18 day?

19 A May 9th.

20 Q Of what year?

21 A 2014.

22 Q And do you recall what time of day this conversation took  
23 place?

24 A It was in the afternoon, when I was on the second shift,  
25 around 3.

- 1 Q Did Mr. Negroni approach you or did you approach him?
- 2 A No. He arrived to my area.
- 3 Q And was anyone else present during the conversation?
- 4 A No.
- 5 Q And in what language did this conversation happen?
- 6 A In Spanish.
- 7 Q And to your knowledge, does Mr. Negroni speak and
- 8 understand Spanish?
- 9 A Yes.
- 10 Q Do you recall what Mr. Negroni said when he approached
- 11 you?
- 12 A I sort of remember, yes.
- 13 Q What do you recall him saying?
- 14 A Hello. How are you doing?
- 15 Q Did he say -- do you remember him saying anything after
- 16 that?
- 17 A How do you feel with the Union?
- 18 Q And do you recall responding to that question?
- 19 A Yes.
- 20 Q And what did you say?
- 21 A Is this an interrogation?
- 22 Q And then what happened?
- 23 A I told him I'm working. Leave me alone. I'm working.
- 24 Don't interrupt me.
- 25 Q And did Mr. Negroni say anything further?



1 A Yes.

2 Q What did he say?

3 A Calm down.

4 Q Okay. And how did you respond to that?

5 A I got out of my pocket a paper, and I showed it to him.

6 MS. VALENTINE: Your Honor, I'd like to approach the  
7 witness.

8 JUDGE MCCARRICK: Go ahead.

9 MS. VALENTINE: I want to show him a document that's been  
10 labeled General Counsel's Exhibit 2. I'm giving copies to the  
11 parties.

12 Q BY MS. VALENTINE: Can you take a look at that document?

13 A Yes.

14 Q What is that? What is it? What is that?

15 A It's the document that says that we have rights and we can  
16 organize to have something better.

17 Q Okay. Is that the document that you showed to Mr.  
18 Negroni?

19 A Exactly.

20 Q And after you showed it to him, what happened?

21 JUDGE MCCARRICK: Let me back you up before you -- was the  
22 document you showed Mr. Negroni the same size as this paper?

23 THE WITNESS: I think it's like this.

24 JUDGE MCCARRICK: The witness folded the document in half.

25 Okay, go ahead.

1 Q BY MS. VALENTINE: And after you handed the document to  
2 Mr. Negroni, what happened?

3 A He told me this document doesn't work her, my brother.

4 Q Do you remember anything else he said?

5 A Yes.

6 Q What else did he say?

7 A He told me who pays your check, the company or the Union.

8 Q And did you respond to that?

9 A I was already upset. I didn't answer. I told him why, if  
10 the firemen, the policemen, have union, why are you always  
11 talking bad about the Union.

12 Q Did Mr. Negroni respond?

13 A No.

14 Q Then what happened?

15 A He started at me, he turned around, and he left.

16 Q And about how long did this conversation last?

17 A Three, four minutes.

18 MS. VALENTINE: And, Your Honor, I'd like to move General  
19 Counsel's Exhibit 2 into the record?

20 JUDGE MCCARRICK: Any objection?

21 MR. TOPOLSKI: Your Honor, I'm -- I do have some  
22 objections. I'm not sure this has been properly authenticated.  
23 I need cross-examination. I need to make sure that -- this is  
24 in English. I'm not even sure the witness can read it.

25 JUDGE MCCARRICK: I'm not sure it makes any difference

1 whether he can read it or not. The point is he -- this is --  
2 he identified the document as what he showed to Mr. Negroni.  
3 So whether he can read it or not is irrelevant.

4 MR. TOPOLSKI: No objection. We'll let it in.

5 JUDGE MCCARRICK: All right. 2 is received.

6 **(General Counsel Exhibit Number 2 Received into Evidence)**

7 MS. VALENTINE: Thank you, Your Honor. Nothing further.  
8 Thank you.

9 JUDGE MCCARRICK: Anything from the Union?

10 MS. LEE: No, Your Honor.

11 JUDGE MCCARRICK: Okay. Cross-examination.

12 MR. TOPOLSKI: Obviously, we'd like to see any Jencks  
13 statements that he has and take a few minutes.

14 MS. VALENTINE: Your Honor, there's one affidavit. It is  
15 25 pages in length with two exhibits attached.

16 JUDGE MCCARRICK: And what's the date of the affidavit?

17 MS. VALENTINE: Oh, sorry. The date is June 23rd, 2014.

18 JUDGE MCCARRICK: Very good. Let the record reflect  
19 that's being provided to counsel for Respondent. We'll take a  
20 short break to give counsel an opportunity to review the  
21 document before we continue with cross-examination. Off the  
22 record.

23 (Off the record at 10:23 a.m.)

24 JUDGE MCCARRICK: Go ahead.

25 MR. TOPOLSKI: Thank you. Thank you, Your Honor.

1 CROSS-EXAMINATION

2 Q BY MR. TOPOLSKI: Mr. Perez, my name is Doug Topolski.

3 I'm an attorney for UNF, and I'd like to ask you some questions  
4 about your testimony.

5 A Yes. Of course.

6 Q All right. I think we can agree that everyone with the  
7 warehouse knew that you were one of the primary Union  
8 supporters, correct?

9 A Yes.

10 Q Okay. And you mentioned in your affidavit that you had a  
11 license -- a Teamsters' license plate holder on your truck,  
12 correct?

13 A Stimsters?

14 Q Teamsters' license plate holder. Yes?

15 A Yes, yes.

16 Q And was that on your truck on May 9, 2014?

17 A Not on the truck. In my car.

18 MR. TOPOLSKI: In his car? Okay. All right.

19 Q BY MR. TOPOLSKI: Now, you filed a -- your own charge,  
20 didn't you?

21 MS. VALENTINE: Objection, relevance.

22 THE WITNESS: I don't understand that.

23 JUDGE MCCARRICK: No question pending.

24 Q BY MR. TOPOLSKI: Did you file a charge -- did you file  
25 allegations that was in a charge number 21-CA-129444?

1 MS. VALENTINE: Objection.

2 JUDGE MCCARRICK: All right.

3 MS. VALENTINE: Objection. What -- can you specify what  
4 charge you're talking about?

5 MR. TOPOLSKI: Yes. There was a charge where -- where  
6 Mr. Perez made some allegations that was dismissed. That's all  
7 I want to -- that's all I want to get in.

8 MS. VALENTINE: What -- did he file a charge?

9 MR. TOPOLSKI: Yeah. It's on the top of his affidavit.

10 MS. VALENTINE: Does -- okay.

11 MR. TOPOLSKI: All right? At the top of the --

12 MS. VALENTINE: And what kind of -- can you just specify  
13 what -- what type of charge? Because he's -- he's not, you  
14 know, a Board agent or an attorney.

15 MR. TOPOLSKI: Yes. He made an allegation that --

16 MS. VALENTINE: No, no, no. No. I'm just asking can you  
17 specify what kind of charge and --

18 MR. TOPOLSKI: It's 8(a)(1)s and 8(a)(3)s.

19 MS. VALENTINE: No, no, no. No, no.

20 JUDGE MCCARRICK: Direct -- direct your objections --

21 MS. VALENTINE: I'm sorry.

22 JUDGE MCCARRICK: -- to me. I don't want --

23 MS. VALENTINE: I'm sorry.

24 JUDGE MCCARRICK: -- any interchange between the parties --

25 MS. VALENTINE: I'm sorry about that, Your Honor.

1 JUDGE MCCARRICK: -- on objections. Direct it to me.

2 MS. VALENTINE: I'm -- I'm objecting to the vague nature of  
3 the question "charge" to the -- as to this specific witness  
4 who's not a Union Agent or any -- anyone who's knowledgeable  
5 about --

6 JUDGE MCCARRICK: The question -- the question is simple.  
7 Did he file a charge in a particular case. If the witness  
8 doesn't know about it or doesn't understand it, he can -- he  
9 can express that. I'm going to overrule --

10 MR. TOPOLSKI: Let me see if I can go at it --

11 JUDGE MCCARRICK: -- overrule the objection.

12 MR. TOPOLSKI: -- a different way. Okay.

13 Q BY MR. TOPOLSKI: Let me rephrase the question for you.  
14 You gave the Board an affidavit, correct?

15 A Yes.

16 Q Okay. And the affidavit related to charges that brought  
17 you here today, correct?

18 A Yes. Yes.

19 Q Okay. And it related to another unfair labor practice  
20 charge that was dismissed, correct?

21 MS. VALENTINE: Objection; relevance. Objection; also  
22 assumes facts that aren't -- that haven't -- I don't know that  
23 he's a competent witness to talk about the -- the outcome of a  
24 specific case.

25 JUDGE MCCARRICK: All right. I'm -- I'm going to -- he's

1 certainly ought to know. If he filed a charge and he got a  
2 dismissal letter, he would know.

3 MS. VALENTINE: I -- let me ask that --

4 JUDGE MCCARRICK: I'm going to overrule General Counsel's  
5 objection. I'm not sure what the relevance is, however, of --  
6 of a dismissed charge --

7 MR. TOPOLSKI: I just want to --

8 JUDGE MCCARRICK: -- in these proceedings.

9 MR. TOPOLSKI: -- just indicate the fact that he filed some  
10 allegations and they were dismissed.

11 JUDGE MCCARRICK: That's irrelevant.

12 MR. TOPOLSKI: Okay.

13 JUDGE MCCARRICK: The fact that they were -- they were  
14 dismissed --

15 MR. TOPOLSKI: Then I'll --

16 JUDGE MCCARRICK: -- is irrelevant.

17 MR. TOPOLSKI: -- withdraw the question. Not a problem.

18 JUDGE MCCARRICK: Okay.

19 Q BY MR. TOPOLSKI: Okay. Now, in your affidavit, you  
20 mentioned -- and in your testimony as well, you mentioned that  
21 you went to some meetings, correct?

22 A Yes.

23 Q Okay. And you went to meetings that were done in Spanish,  
24 correct?

25 A Yes.

1 Q Okay. And at those meetings there were PowerPoints that  
2 were presented, weren't there?

3 A There were what? I'm sorry.

4 Q Slides on a screen?

5 A Oh, yes. Yes.

6 Q Okay. And when you went to those meetings, they made you  
7 sign in, didn't they?

8 A Yes.

9 Q Okay.

10 MS. VALENTINE: Objection. This is going outside the scope  
11 of -- of the direct examination. There was no testimony  
12 about -- about meetings -- meetings at all that --

13 JUDGE MCCARRICK: He did testify he went to meetings.

14 MS. VALENTINE: Oh.

15 MR. TOPOLSKI: This goes directly to where everybody was  
16 and what time they were there.

17 JUDGE MCCARRICK: Yeah. He had testified he went to  
18 meetings.

19 MS. VALENTINE: Not about the content. Well --

20 JUDGE MCCARRICK: Not about the content; simply about the  
21 fact --

22 MS. VALENTINE: About the content of the meetings or --

23 JUDGE MCCARRICK: -- that he went to meetings.

24 MS. VALENTINE: You're right, Your Honor. I apologize.

25 JUDGE MCCARRICK: Okay.



1 MS. VALENTINE: But it was -- go ahead. I withdraw --

2 JUDGE MCCARRICK: Go ahead.

3 MS. VALENTINE: -- the objection.

4 MR. TOPOLSKI: Okay.

5 Q BY MR. TOPOLSKI: And -- and you were required to sign in  
6 at those meetings, correct?

7 A Yes.

8 Q Okay. And you said in your affidavit that the meetings  
9 lasted about 45 minutes each. Is that accurate?

10 A Yes, between 40 or 50.

11 Q Okay. And they could go even a little longer depending on  
12 whether there were questions and that kind of stuff, correct?

13 A Yes.

14 Q Okay.

15 MR. TOPOLSKI: I want to mark these.

16 JUDGE MCCARRICK: It would be Respondent's 1.

17 MR. TOPOLSKI: Correct.

18 **(Respondent Exhibit Number 1 Marked for Identification)**

19 Q BY MR. TOPOLSKI: If I may?

20 A Yes.

21 Q I'm showing you what's been marked as Respondent's  
22 Exhibit 1, Mr. Perez. Do you see your name on that document?

23 A Yes.

24 Q Okay. And that's -- and that indicates that you were at a  
25 meeting on May 9, 2014, correct?

1 A Yes.

2 Q Okay. Now, this document indicates that the meeting began  
3 at 2:15. You don't have any reason to believe that's  
4 inaccurate, do you?

5 A I don't understand when you said it's not -- it's not  
6 exact. Could you specify the question, please?

7 Q The document says the meeting started at 2:15. That's  
8 accurate? That's correct, correct?

9 A Yes. Yes.

10 Q Okay. All right. And Mr. Ortiz and Mr. Negroni were at  
11 that meeting, correct?

12 A Yes.

13 Q Okay. And at that meeting, you stood up and made some  
14 comments about the handbook and RoadLink (phonetic), didn't  
15 you?

16 MS. VALENTINE: Objection; relevance.

17 JUDGE MCCARRICK: Overruled.

18 Do you have the question in mind?

19 THE INTERPRETER: Yes. May the interpreter -- the question  
20 be repeated?

21 JUDGE MCCARRICK: Go ahead.

22 MR. TOPOLSKI: Yes.

23 Q BY MR. TOPOLSKI: At that meeting, you stood up and made  
24 comments about the employee handbook and the RoadLink company,  
25 correct?

1 A Yes.

2 Q Okay. And you actually asked the other people in the  
3 meeting to leave, didn't you?

4 A To leave? No. Well, when the meeting finished, we left.

5 Q Okay. But no one left the meeting until it was over,  
6 correct?

7 A Yes.

8 Q Okay. Well, if the meeting started at 2:15 and it went 45  
9 minutes and no one left until it was over, how could Juan  
10 Negroni be out talking to you in the warehouse at 3:00 in the  
11 afternoon?

12 MS. VALENTINE: Objection; misstates the testimony.

13 JUDGE MCCARRICK: It's argumentative.

14 MR. TOPOLSKI: The witness testified he spoke with  
15 Mr. Negroni at 3:00.

16 JUDGE MCCARRICK: I understand. But -- but the question's  
17 argumentative. I can draw inferences from the facts. You can  
18 argue the consequences of the facts and the length of the  
19 meeting in your brief.

20 MR. TOPOLSKI: Okay.

21 Q BY MR. TOPOLSKI: The fact of the matter is, Mr. Perez,  
22 Mr. Negroni was never in the warehouse on May 9th; isn't that  
23 true?

24 A He was there.

25 Q He was in the meeting, correct?

1 A Yes. Yes.

2 Q Okay.

3 A Yes.

4 Q And he was not in the warehouse on May 9 at all, was he?

5 A He showed up later in my working area.

6 Q Well, you said he was in your working area about 3:00.

7 Didn't you say that?

8 MS. VALENTINE: Objection; misstates --

9 THE WITNESS: Yes, sir.

10 JUDGE MCCARRICK: Overruled.

11 Q BY MR. TOPOLSKI: And he was in this meeting at 3:00,

12 wasn't he?

13 MS. VALENTINE: Objection.

14 THE WITNESS: It's obvious. I said just a little while ago

15 I was on the second shift.

16 Q BY MR. TOPOLSKI: And the second shift starts at noon,

17 doesn't it?

18 A Yes. I was on the second shift and then I was moved to

19 the third.

20 Q Okay. Do you read English?

21 A A little.

22 Q Okay. Can you read this leaflet that's General Counsel

23 Exhibit 2?

24 A Where does it say it's Number 2?

25 JUDGE MCCARRICK: Let -- let the record reflect --

1 MS. VALENTINE: Objection.

2 JUDGE MCCARRICK: -- that the witness is -- the witness --  
3 counsel's referring to General Counsel's 2.

4 Can you read -- can you read General Counsel's 2, sir?

5 THE WITNESS: I could read it -- well, a little bit. But  
6 like if I read it, I would need you.

7 THE INTERPRETER: Your Honor, this is the interpreter. He  
8 made a motion towards the interpreter.

9 JUDGE MCCARRICK: Ah. He'd need assistance?

10 THE INTERPRETER: "Without" --

11 JUDGE MCCARRICK: Indicating he would need the assistance  
12 of the interpreter.

13 THE INTERPRETER: "Without you."

14 JUDGE MCCARRICK: Referring to the interpreter.

15 MR. TOPOLSKI: My committee says we have no further  
16 questions, Your Honor.

17 JUDGE MCCARRICK: Okay. Any redirect?

18 MS. VALENTINE: Can I have a moment, Your Honor?

19 JUDGE MCCARRICK: You may. Let's go off the record.

20 (Off the record at 11:01 a.m.)

21 JUDGE MCCARRICK: All right. Let the record reflect that  
22 the witness affidavit was returned to counsel for the General  
23 Counsel.

24 Also, Mr. Topolski, are you offering Respondent's 1?

25 MR. TOPOLSKI: Yes, please. I'd like --

1 JUDGE MCCARRICK: Any --

2 MR. TOPOLSKI: -- to move for Respondent's 1 into evidence,  
3 please.

4 JUDGE MCCARRICK: Any objection to the receipt of  
5 Respondent's 1, the informational meeting signature?

6 MS. VALENTINE: Oh. No, Your Honor.

7 MS. LEE: No objection.

8 JUDGE MCCARRICK: All right. Respondent's 1 is received.

9 **(Respondent Exhibit Number 1 Received into Evidence)**

10 JUDGE MCCARRICK: Redirect?

11 MS. VALENTINE: Yes. Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 Q BY MS. VALENTINE: Mr. Perez, just a couple of questions.

14 A Yes.

15 Q Let's see. Where was the meeting that was referred to  
16 that the -- the -- that started at 2:15? Do you recall where  
17 that meeting took place?

18 A Right next to human resources. The specific place right  
19 there where they do meetings.

20 Q Okay. Is it a room of some sort?

21 A Yes. Like a room for meetings, yes.

22 Q Okay.

23 JUDGE MCCARRICK: And the witness was I think indicating a  
24 room like this. He was making a circular motion with his hand.

25 THE WITNESS: Yes. Yes, something like this.

1 Q BY MS. VALENTINE: And do you -- do you recall exactly how  
2 long that meeting lasted on that particular day?

3 A Yes. Like 40, 45, 50 minutes. Yes.

4 Q And when -- do you know -- when -- when you testified  
5 about the time that Mr. Negroni came to your work area, was  
6 that an exact or an approximate time?

7 A An approximate.

8 Q Okay. And regarding the -- the document, General  
9 Counsel's 2, the -- the one next to your left hand there --  
10 JUDGE MCCARRICK: Referring to General Counsel's 2.

11 Q BY MS. VALENTINE: -- where did you get that document?

12 A One of my co-workers gave it to me.

13 Q Okay. And do you know what it says?

14 A He read it for me. He read it for me.

15 Q Okay. And --

16 A Yes, he read it.

17 JUDGE MCCARRICK: In what language?

18 THE WITNESS: In Spanish.

19 Q BY MS. VALENTINE: Okay. So he translated it for you?

20 A Yes. Yes. Because --

21 Q And --

22 A Yeah.

23 Q Generally, what is your understanding of what that  
24 document means?

25 A It's -- it's -- it's a little bit. It's a -- I can

1 understand --

2 Q Oh.

3 A -- some things.

4 Q Well, I'm not asking you to read it in English or tell me  
5 what it says in English. I just mean if you can explain in  
6 Spanish what is your -- what does this -- what does the paper  
7 mean in general.

8 A Well, it's like -- like the rights -- it's like the rights  
9 we have to organize. To organize to improve conditions, the  
10 shift schedules, better -- better wages, benefits. It talks  
11 about the rights that we have as employees on get a better --  
12 get better benefits, that we have a union right.

13 MS. VALENTINE: That's all I have. Thank you.

14 JUDGE MCCARRICK: Anything from the Union?

15 MS. LEE: I do. I have a question.

16 **REDIRECT EXAMINATION**

17 Q BY MS. LEE: Good morning, Mr. Perez. My name is Shirley  
18 Lee. I'm the attorney for the Union.

19 A Good morning. Nice to meet you.

20 Q When -- you testified earlier today that you handed  
21 General Counsel's 2, that document, or you showed this document  
22 to Juan Negroni?

23 A Yes.

24 Q Why did you show the document to Juan Negroni?

25 A Because normally when Juan -- Juan talks to any of the co-



1 workers, he's pressuring them and talking bad about the Union.

2 Q Did you feel pressured when he was talking to you at that  
3 time?

4 JUDGE MCCARRICK: I'm not sure that it's relevant.

5 MR. TOPOLSKI: Yeah. Objection. It's not --

6 JUDGE MCCARRICK: It's not relevant. The witness  
7 objective -- it's an objective standard here rather than a  
8 subjective one.

9 MS. LEE: Okay. No further questions.

10 JUDGE MCCARRICK: Anything further?

11 MR. TOPOLSKI: No.

12 MS. VALENTINE: Nothing, Your Honor.

13 JUDGE MCCARRICK: Thank you, sir. You're free to step down.

14 THE WITNESS: Thank you very much.

15 JUDGE MCCARRICK: Okay. Let's go off the record.

16 (Off the record at 11:09 a.m.)

17 JUDGE MCCARRICK: Who would you call as your next witness?

18 MR. RIMBACH: We'd like to call Mr. Lino Contreras.

19 JUDGE MCCARRICK: Sir, if you'll come forward. Watch your  
20 step, sir. There you go.

21 All right. If you'll raise your right hand, sir.

22 Whereupon,

23 **LINO CONTRERAS**

24 having been duly sworn, was called as a witness herein and was  
25 examined and testified as follows:

1 JUDGE MCCARRICK: Sir, could you state your name?

2 THE WITNESS: My name is Lino Contreras.

3 JUDGE MCCARRICK: Okay. All right. Go ahead.

4 **DIRECT EXAMINATION**

5 Q BY MR. RIMBACH: Good morning, Mr. Contreras.

6 A Good morning.

7 Q Are you presently employed?

8 A Yes.

9 Q Where are you presently employed?

10 A UNFI, United Natural Food.

11 Q And what location?

12 A Moreno Valley.

13 Q About how long have you worked for UNFI?

14 A This coming May is going to be eight years.

15 Q What is your current job title with UNFI?

16 A I'm a reach operator.

17 JUDGE MCCARRICK: A -- I'm sorry. A what?

18 THE WITNESS: Reach operator. It's a machine. Like a  
19 forklift.

20 MS. VALENTINE: Reach.

21 MS. LEE: Can you spell it?

22 JUDGE MCCARRICK: Reach?

23 THE WITNESS: Yeah, reach.

24 JUDGE MCCARRICK: R-E-A-C-H.

25 MS. VALENTINE: Yes.

1 THE WITNESS: Yes.

2 Q BY MR. RIMBACH: And you're also a box stacker?

3 A That's a stacker, yeah.

4 Q And what are your duties as a reach operator?

5 A My job is to replenish product to the pick location for  
6 pickers.

7 Q What is your current shift at work?

8 A Third shift.

9 Q What are the hours?

10 A That's from 7 p.m. to 3:30 in the morning.

11 Q Does the Union currently represent employees at your work?

12 A No.

13 Q There is an effort by employees to join a union at work?

14 A Yes.

15 Q What is the name of the Union?

16 A Teamsters, Local 166.

17 Q Are you involved in the effort by employees to join a  
18 union?

19 A Yes.

20 Q When did you become involved in the union organizing  
21 effort?

22 A I become involved -- involved in 2000 -- 2012.

23 Q How are you involved as part of these organizing efforts?

24 A I do cards, talk to employees about the Union.

25 Q When did you talk to employees about the Union?

- 1 A When?
- 2 Q (No verbal response).
- 3 A Since 2012.
- 4 Q How often did you talk to your co-workers about the Union?
- 5 A Almost every day on my lunch and break times.
- 6 Q Have you ever held a position in the Union?
- 7 A No.
- 8 Q Do you know who Carlos Ortiz is?
- 9 A Yes.
- 10 Q Who is Carlos Ortiz?
- 11 A Carlos Ortiz, he came with a group, antiunion or -- or
- 12 union busters.
- 13 Q You said union busters?
- 14 A Yes.
- 15 Q What do you mean by that?
- 16 A It's a group who comes. This group is being hired by the
- 17 Company to talk to -- not Teamsters, about the Union.
- 18 Q And what do these union busters do?
- 19 A They conduct meetings.
- 20 Q Does Carlos Ortiz -- did he hold meetings with you?
- 21 A Yes.
- 22 Q Do you recall about how many meetings you attended that
- 23 Mr. Ortiz conducted?
- 24 A I attend only one.
- 25 Q Do you recall the month when Ortiz conducted this meeting?

1 A That was May 16, 2014.

2 Q And in May 2014, what shift were you working?

3 A I was working second shift.

4 Q What hours were the second shift?

5 A From 12 p.m. to -- until the shift is done, until the job  
6 is done. It could be 10 hours, 11 hours.

7 Q The meeting that Ortiz conducted on May 16, 2014, do you  
8 recall where this meeting was held?

9 A Yeah. That was HR.

10 Q Where in the HR department?

11 A In the -- they have a small room where they -- they  
12 conduct meetings.

13 Q Do you recall about what time of day the meeting occurred?

14 A It was noon -- I don't remember the exact time.

15 Q Do you recall who called you to the meeting?

16 A My supervisor send me there.

17 Q Who is your supervisor?

18 A Luis Torres.

19 Q About how many people were present at this meeting?

20 A There was about seven of us. Six, seven people.

21 Q Do you recall who was present at this meeting?

22 A Yes.

23 Q Who do you recall that was present?

24 A It was -- at that meeting was Mario Hernandez, Juan

25 Urquiza, there was Carlos Ortiz, Luisa Perez and myself. I

1 don't remember the other person.

2 Q Who are Juan Urquiza and Mario Hernandez?

3 A Those are another employees.

4 Q And who is Luisa Perez?

5 A Luisa Perez, that's another -- that's a lady who comes  
6 with the union busters or antiunion.

7 Q What does Luisa Perez do?

8 A I saw her talking with the employees in the warehouse.

9 Q What does she talk to employees about?

10 A Something about --

11 MR. TOPOLSKI: Objection; this calls for speculation.

12 JUDGE MCCARRICK: There's no foundation. Sustained.

13 Q BY MR. RIMBACH: Do you know what Luisa Perez talks to  
14 other employees about?

15 A Yes. Talking about the same thing, about the --

16 MR. TOPOLSKI: Objection.

17 THE WITNESS: -- union is not --

18 JUDGE MCCARRICK: Sustained.

19 THE WITNESS: -- good.

20 JUDGE MCCARRICK: You have to lay a foundation for the  
21 witness knowledge.

22 Q BY MR. RIMBACH: Do you know if Luisa Perez spoke to other  
23 employees?

24 A Yes.

25 Q How do you know?

1 A I hear -- I hear -- I hear she talking to another  
2 employees also.

3 Q You've heard her speak to other employees?

4 A Yes.

5 Q And what kind of things did she tell other employees?

6 A She talks about the Union is -- is a bad thing for the  
7 Company. And also the Company is no good for employees.

8 Q So the meeting on May 16, 2014 that Mr. Ortiz conducted,  
9 in what language was this meeting conducted in?

10 A That was in Spanish.

11 Q Are you fluent in Spanish?

12 A Yes.

13 Q To your knowledge, do you know whether Mr. Ortiz speaks  
14 and understands Spanish?

15 A Yes, he does.

16 Q Do you recall how this meeting started?

17 A Yes.

18 Q How did it start?

19 A How it started, it started with Carlos Ortiz saying the  
20 Union's no good.

21 JUDGE MCCARRICK: Let's -- let's -- was Mr. Ortiz speaking  
22 in Spanish?

23 THE WITNESS: Yes, sir.

24 JUDGE MCCARRICK: Would you -- would you -- because he --  
25 he spoke in Spanish, would you state what was said in Spanish

1 and then the interpreter can interpret it in English for us?

2 THE WITNESS: Yes, sir.

3 JUDGE MCCARRICK: Okay. So Mr. Ortiz said?

4 THE WITNESS: Mr. Ortiz said -- saying that the Union was  
5 not good. That they only want the employees' money.

6 Q BY MR. RIMBACH: Did any of the employees respond?

7 A I responded.

8 Q And what did you say?

9 A I told Mr. Ortiz, "I have heard from the warehouse that  
10 you guys are saying that if the Union wins, the Company's going  
11 to reduce the wages of all the employees."

12 Q Do you recall how Mr. Ortiz responded after you spoke up?

13 A Yes.

14 Q How did he respond? In Spanish.

15 JUDGE MCCARRICK: In Spanish.

16 THE WITNESS: "Lino, we put that message on the projector  
17 so everybody could see it."

18 JUDGE MCCARRICK: I'm sorry? Say that again. I -- I  
19 missed --

20 THE INTERPRETER: "Mr. Lino, we puts" -- "we put that  
21 message on the projector so everybody could see it."

22 Q BY MR. RIMBACH: What else did he say?

23 A "Lino, of course, if the Union wins, the Company could  
24 reduce your wages." So I responded, "But that's illegal."

25 Q Okay. Mr. Contreras, after you said, this is illegal, how



1 did Mr. Ortiz respond?

2 A He said to me, "Lino, who pays your salary?"

3 Q What else did he say?

4 A "The Company, right? Therefore, the Company has the right  
5 to reduce your salary."

6 Q Did you respond to that?

7 JUDGE MCCARRICK: I'm sorry. Wait a minute. "Has the  
8 right to reduce" --

9 THE INTERPRETER: The wages, your salary.

10 JUDGE MCCARRICK: Reduce the salary. Go ahead.

11 (The Witness Through The Interpreter)

12 Q BY MR. RIMBACH: Did you respond?

13 A "Yes, if that's what you say."

14 Q Can you describe the presentation that you mentioned that  
15 was projected?

16 THE WITNESS: You want this in English or in Spanish?

17 JUDGE MCCARRICK: In -- in English I think.

18 THE WITNESS: Okay.

19 JUDGE MCCARRICK: We're just getting a general description  
20 here.

21 THE WITNESS: Yeah. Well, that -- what is -- that was  
22 projected on the -- on the screen, that was the -- kind of like  
23 what -- what happened. And just like people walking in a line,  
24 like on a strike. They said -- the conversation, said, "See  
25 this, what's going on here, it could happen to you, because

1 this is what happened in Washington."

2 JUDGE MCCARRICK: Were these slides that were being  
3 projected on a screen?

4 THE WITNESS: Yes. Just -- just the pictures, yeah.

5 JUDGE MCCARRICK: It wasn't a movie, it was just --

6 THE WITNESS: No. Just -- just, yeah --

7 JUDGE MCCARRICK: Pictures?

8 THE WITNESS: People, yeah.

9 JUDGE MCCARRICK: Okay.

10 Q BY MR. RIMBACH: Was the presentation in English or  
11 Spanish, the slides?

12 A That was in English.

13 Q Do you recall anything further about the slide  
14 presentation?

15 A I don't remember right now.

16 Q Do you recall if there was a sign-in sheet at this  
17 meeting?

18 A Oh, yes, there was.

19 Q About how long was this meeting?

20 A Like about 45 to an hour.

21 Q Do you know who Juan Negroni is?

22 A Yes.

23 Q Who is Mr. Negroni?

24 A He's part of the group who comes to the Company to speak  
25 about antiunion.

- 1 Q How do you know who he is?
- 2 A He introduced himself to me.
- 3 Q So Mr. Negroni was also a union buster?
- 4 A Yes.
- 5 MR. TOPOLSKI: Objection.
- 6 JUDGE MCCARRICK: Basis?
- 7 MR. TOPOLSKI: Characterization.
- 8 JUDGE MCCARRICK: Sustained.
- 9 Q BY MR. RIMBACH: Can -- can you describe what Mr. Negroni  
10 did at your work?
- 11 A What he did? Yeah, he -- she -- he spoke to me.
- 12 Q What did he speak to you about?
- 13 A I was working when he approached me.
- 14 Q So about how many times did Mr. Negroni speak to you?
- 15 A Probably from -- from the beginning, 2012, about three  
16 times -- about two or three times only.
- 17 Q Do you recall when he spoke to you?
- 18 A The last time, that was -- that was May 22nd, 2014. Yeah.
- 19 Q On May 22nd 2014, where did Mr. Negroni approach you?
- 20 A I was working in repack, my department.
- 21 Q About what time of day did he approach?
- 22 A Only about 5:00 or 6 p.m., something --
- 23 Q What were you doing at the time?
- 24 A What I'm doing?
- 25 Q What were you doing when he approached you?

1 A I was working.

2 Q Was there anyone else present during this conversation  
3 with him?

4 A No.

5 Q In what language was this conversation in?

6 A He approached me in Spanish.

7 Q To your knowledge, do you know whether Mr. Negroni speaks  
8 and understands Spanish?

9 A Yes, he does.

10 Q Do you recall how this conversation started?

11 A Yes. He approached me and said, "Hi Lino."

12 JUDGE MCCARRICK: Again, was he speaking in Spanish?

13 THE WITNESS: Yes. Okay.

14 JUDGE MCCARRICK: Why don't you go ahead and -- and --

15 THE WITNESS: Yes.

16 JUDGE MCCARRICK: -- speak in Spanish and we'll get a  
17 translation of that.

18 THE WITNESS: Yes, sir. Mr. Negroni approached me and he  
19 said to me, "What about the Union?" I responded, "Fine.  
20 Everything's fine. Why are you asking?"

21 Q BY MR. RIMBACH: What did Mr. Negroni then say next?

22 A "I have heard that the Union is making a lot of promises."

23 Q Did you respond?

24 JUDGE MCCARRICK: They made promises?

25 THE WITNESS: Yes.

1 THE INTERPRETER: Promises.

2 JUDGE MCCARRICK: Go ahead.

3 Q BY MR. RIMBACH: Did you respond?

4 A Yes. I told him, "The Union is not making any promises.  
5 You guys are making false promises. Lying to people and  
6 threatening them."

7 Q Do you recall what Mr. Negroni said in response?

8 A He told me, "I hope the company won't hear what you're  
9 saying. So I always carry a document with me. It's the  
10 employee's rights."

11 Q One -- one minute. After -- after Mr. Negroni said that,  
12 you said he pulled out a document?

13 A Yes, sir.

14 Q What document did he pull out?

15 A That's -- this is employees' right under the Labor  
16 National -- under the National Labor Act.

17 MS. VALENTINE: I don't -- well --

18 JUDGE MCCARRICK: All right. Go ahead.

19 MR. RIMBACH: Oh, sorry.

20 JUDGE MCCARRICK: Go ahead.

21 MR. RIMBACH: Your Honor, I have what is marked as GC  
22 Exhibit 3.

23 JUDGE MCCARRICK: Uh-huh.

24 MR. TOPOLSKI: Can we stipulate that's the same as GC  
25 Exhibit 2?

1 JUDGE MCCARRICK: It sure looks -- it looks the -- it looks  
2 the same to me. I haven't read the entire thing, but it -- all  
3 the paragraphs are in the same place.

4 MR. RIMBACH: I think it's the -- I think it's similar,  
5 yes.

6 MR. TOPOLSKI: It's either similar or identical. Is it --  
7 is it the same document?

8 JUDGE MCCARRICK: I think it's the same --

9 MR. TOPOLSKI: I'm trying to save time here.

10 JUDGE MCCARRICK: I think it's the same document.

11 Why don't you show him -- why don't you show him General  
12 Counsel's 2. It -- it's identical.

13 MS. VALENTINE: Right.

14 MR. RIMBACH: Yeah. Okay.

15 JUDGE MCCARRICK: Just show him GC-2.

16 MR. RIMBACH: Your Honor, we've shown Mr. Contreras General  
17 Counsel's Exhibit 2.

18 Q BY MR. RIMBACH: Is this a copy of the document you just  
19 referred to?

20 A Yes, sir.

21 Q That what happened after you showed Mr. Negroni that  
22 document?

23 A Well --

24 Q In English.

25 A In English. After I showed Mr. Negroni this document, he

1 look at it and he says, "You know what" --

2 JUDGE MCCARRICK: In -- in Spanish.

3 THE WITNESS: All right. Fine. Okay. After I gave  
4 Mr. Negroni the paper, he looked at it and he said, "You know  
5 what, this is useless. The Company has its own policies."

6 Q BY MR. RIMBACH: What happened after Mr. Negroni said  
7 that?

8 A He gave me the paper back, turned around and left.

9 Q What did you do after that?

10 A After that, I continued working.

11 Q About how long was this meeting with Mr. Negroni?

12 A It took about probably four or five minutes.

13 Q Thank you, Mr. Contreras. No further questions.

14 A You're welcome.

15 JUDGE MCCARRICK: Any questions from the Union?

16 MS. LEE: Nothing.

17 JUDGE MCCARRICK: Cross-examination.

18 MR. TOPOLSKI: I'd like to see the Jencks statement.

19 MR. RIMBACH: Your Honor, we have two Jencks statements,  
20 two prior affidavits. One affidavit consists of 20 pages and  
21 is dated June 13th, 2014 --

22 JUDGE MCCARRICK: Uh-huh.

23 MR. RIMBACH: -- and there's one -- I'm sorry. There's two  
24 exhibits attached. We have a second affidavit that's dated May  
25 14, 2014 with two exhibits attached.

1 JUDGE MCCARRICK: How long is that one?

2 UNIDENTIFIED SPEAKER: Pardon me?

3 JUDGE MCCARRICK: I'm asking the length.

4 MR. RIMBACH: It's 21 pages. And we've redacted a couple  
5 of names from the second affidavit who appear to be known Union  
6 supporters.

7 JUDGE MCCARRICK: Okay.

8 MR. RIMBACH: Or sorry. I'm sorry. Unknown Union  
9 supporters. We're not sure if they're Union supporters.

10 JUDGE MCCARRICK: Yeah.

11 MR. RIMBACH: And so we've just redacted their --

12 JUDGE MCCARRICK: All right.

13 MR. RIMBACH: -- names.

14 JUDGE MCCARRICK: We'll -- we'll deal with that if we have  
15 to. Anything else?

16 Okay. Let's go off the record. In fact, given the length,  
17 let's break at this point for -- for lunch, we'll be back on  
18 the record at 1:15. All right. Off the record.

19 (Off the record at 11:33 a.m.)

20 JUDGE MCCARRICK: Go ahead.

21 MR. TOPOLSKI: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 Q BY MR. TOPOLSKI: Mr. Contreras, we've actually met before  
24 I think. My name is Doug Topolski, and I am an attorney for  
25 UNF. And I'm going to ask you some questions about your



1 testimony.

2 A All right, sir.

3 Q Okay. You testified at the last trial that they had about  
4 unfair labor practices at UNF, didn't you?

5 A The last --

6 Q Yes. Remember we had another trial about unfair labor  
7 practices? Didn't you testify at that trial?

8 A In 2012?

9 Q Yes. Actually, it was in 2000. The trial itself was in  
10 2013.

11 JUDGE MCCARRICK: Do you remember being in a hearing like  
12 this, sir?

13 Q BY MR. TOPOLSKI: Up the street.

14 A Oh, yes.

15 Q Right?

16 A Yes. You're right. Yes, sir.

17 Q Okay, all right. And since that time, I think you've been  
18 recognized as one of the chief supporters of the Union at the  
19 facility, correct?

20 A Well, they have another people too.

21 Q Right.

22 A Right.

23 Q But I mean people recognize that you're one of the chief  
24 supporters there, right?

25 A I think so.

1 Q Okay, all right. Now I was looking through your two  
2 affidavits. And in the first affidavit, you mentioned that you  
3 went to three meetings that the company held, information  
4 meetings, correct?

5 MR. RIMBACH: Objection, vague and ambiguous. Which  
6 affidavit?

7 JUDGE MCCARRICK: Overruled.

8 Q BY MR. TOPOLSKI: They're your affidavits.

9 JUDGE MCCARRICK: Overruled. Overruled.

10 Q BY MR. TOPOLSKI: Do you recall stating in your affidavit  
11 that you went to a number of company meetings for the 2014  
12 campaign, a union campaign?

13 A Yeah. We had a couple more, yeah.

14 Q Okay.

15 A Yes.

16 Q And the most of the ones you went to were in English,  
17 correct?

18 A Yes, sir.

19 Q The one on May 16th though was in Spanish, correct?

20 A That's correct, yeah.

21 Q Okay. Now I believe you testified that they had a slide  
22 deck at that meeting, correct? PowerPoint slides that they put  
23 on the screen?

24 A Oh, yes. Yes.

25 Q Okay, all right. And I believe you testified that those

1 slides were in English; is that right?

2 A Which meeting you were saying?

3 Q May 16th.

4 A Oh, May 16th. Yes, it was.

5 Q They were in Spanish, weren't they? Because it was a  
6 Spanish meeting, wasn't it?

7 A I'm not sure.

8 Q All right. Well, Mr. Ortiz read the slides, correct?

9 A No, he never read the slides. He's just talking about the  
10 Union. He never said something about that. He never said  
11 something about the projector. He only -- he explained  
12 everything, but --

13 Q So he put the slides up but didn't say anything about it?  
14 Is that your testimony?

15 A Well, when he put the slide, yes, he said -- he says about  
16 the Union. He talk about the Union. I believe that was in  
17 English I think. Yeah.

18 Q I'm not sure I understand your testimony. What you're  
19 telling me is he put the slides up and then he spoke about the  
20 slides in English at the Spanish meeting? Is that your  
21 testimony?

22 A I'm not sure, very sure whether the slide was in English  
23 or Spanish. I'm not 100 percent sure about that.

24 Q But you are sure --

25 A Yeah.

1 Q -- that he did the meeting in Spanish, correct?

2 A Yeah. Yes. Yes, sir.

3 Q And he read from those slides, didn't he?

4 A He mentioned about the Union, but I don't recall he read  
5 from the slides.

6 Q And all the meetings you went to, didn't they start with  
7 the same slide? Didn't he read from the same slide every time?

8 A No. They're different all the time. I attend meeting in  
9 English.

10 Q Right.

11 A But they have different slides. Only that --

12 Q Oh. They had English slides. But they said the same  
13 thing, didn't they?

14 MR. TOPOLSKI: Let's mark this as Respondent's Exhibit 2,  
15 so you can stop guessing.

16 **(Respondent Exhibit Number 2 Marked for Identification)**

17 Q BY MR. TOPOLSKI: I'm showing you what's been marked as  
18 Respondent's Exhibit 2. Do you recognize this presentation as  
19 the slide presentation that was delivered on May 16th?

20 A I don't remember. I mean it's long time. I'm not sure  
21 about this is the right one. But he mentioned something about  
22 striking Washington, but I can't say this is the one. I'm not  
23 sure about this.

24 Q So you're not sure what slides were shown on May 16th,  
25 were you?

1 A Well, he showed something in the slide, but I didn't put  
2 too much attention to that, because --

3 Q So, but your answer to my question is, sitting here today,  
4 you're not sure what they showed on May 16th, are you?

5 A I'm not sure it was in English or Spanish. That's --

6 Q But you can't even tell me if that was the correct  
7 presentation, can you?

8 A I can't tell you this is the one. No, they -- there was -  
9 - he showed something about the strike they have in Washington.

10 Q Well, that might not have been at this meeting though,  
11 right?

12 A Like I said, I don't remember.

13 Q Well, let me ask you to turn to page 7 of this deck. Do  
14 your recognize that slide at all?

15 A I can't say this is the one, sir. I don't remember.  
16 There's so many.

17 Q Do you remember the right-hand portion of that slide as  
18 being a letter that the Union put out?

19 MS. LEE: Just a clarification. Are you asking him  
20 whether he believes that the right side portion is the text of  
21 something that the Union had distributed or had put out to him?

22 MR. TOPOLSKI: Yes, that's exactly what I'm asking him.

23 THE WITNESS: See, in every meeting I went they put  
24 different slides, but I can't say this is the one they put.

25 They mentioned something, but --

1 Q BY MR. TOPOLSKI: That's not --

2 A -- I can't remember.

3 Q -- answering the question I'm asking you now. The  
4 question I'm asking you now is do you recognize the text on the  
5 recognize of this slide, which is page 7 on Respondent's  
6 Exhibit 2, as a letter that the Union distributed to UNF  
7 employees during the 2014 campaign. Can we agree on that?

8 A I don't remember this.

9 Q You don't remember that at all?

10 A No.

11 Q All right. Well, let me ask you to refer to the third box  
12 on the left-hand side. Okay. Do you remember Carlos telling  
13 people at the meeting, on May 16th, the company never said that  
14 they would bargain from scratch?

15 A I don't remember he say that.

16 Q Okay. Do you ever remember him saying that the company  
17 repeatedly told associates that bargaining starts from where  
18 they are, and from there things can go up, down, or stay the  
19 same? You remember company officials saying that, don't you?

20 A No. He didn't say that. He didn't say that in that  
21 meeting.

22 Q Did he ever say it? You don't recall -- nobody at the  
23 company ever told you that?

24 MS. LEE: You have to let him answer the question. Your  
25 Honor --

1 JUDGE MCCARRICK: One question at a time.

2 MR. TOPOLSKI: Okay.

3 JUDGE MCCARRICK: One question at a time. And don't  
4 address your objections to counsel. Address them to me.

5 MS. LEE: No. I did say Your Honor afterwards. I just --

6 JUDGE MCCARRICK: I didn't hear your Your Honor part.

7 Q BY MR. TOPOLSKI: Let me rephrase the question. All  
8 right. Carlos read this slide and told the associates at that  
9 meeting that bargaining starts from where you are, and you can  
10 go up, down, or stay the same, didn't you?

11 A No, he never said that. That meeting is fine. He never  
12 said that.

13 Q Did you go to any other meeting where that was said that?

14 A I went to other meetings that was in English. But with  
15 only went once.

16 Q Now answer the question I asked you. Did you go to other  
17 meetings where the associates were told that, in bargaining,  
18 things can go up, go down, or stay the same?

19 A I don't remember. I don't remember just -- I don't  
20 remember when -- what meeting -- when they say that.

21 Q So you don't remember what happened at this meeting at  
22 all, do you?

23 MS. LEE: Objection, argumentative.

24 JUDGE MCCARRICK: Overruled.

25 THE WITNESS: Sir, it's been for almost -- I don't know.

1 It's been for a long time. They showed so many things on the  
2 projector. But it's hard for me to remember. But I didn't --  
3 counsel didn't ever mention this.

4 Q BY MR. TOPOLSKI: Well, let's go to the next page. Turn  
5 to the next page. Page 8 specifically says no one is  
6 authorized to tell you that you will lose wages, or anything  
7 else, if the Union gets in. Carlos read that to you too,  
8 didn't he?

9 A Not this one.

10 Q Read the third line. Again, the truth is you could get  
11 more, the same, or less than what you have now. He read that  
12 to you too, didn't he?

13 A No, sir, not at that meeting.

14 Q Is it your testimony that the slide was up there and he  
15 didn't read it or that the slide was never there at all?

16 A Not this slide. Not this one. That meeting in Spanish,  
17 not this one.

18 Q So you don't really remember what happened at this meeting  
19 at all, because you don't even know if this is the deck that  
20 was presented in May 16, do you?

21 MS. LEE: Objection, argumentative.

22 JUDGE MCCARRICK: Sustained.

23 Q BY MR. TOPOLSKI: Can you say for certain this is the deck  
24 that was shown to you on May 16?

25 A No, no, not this one.



1 Q And your testimony was that Carlos said that you could  
2 lose wages if the Union got in, correct?

3 A No. Carlos said -- he said that we could lose sellers --  
4 he said this like this, that if the Union wins that company can  
5 -- could reduce our salary all employees. That's what he says.

6 Q The meeting that you said you had with Juan Negroni on May  
7 22nd, do you know what aisle that was in? Do you remember  
8 that?

9 A We have 91 to 98. It's hard for me to say which I was.  
10 Could 93, 94. All look the same.

11 Q Then the answer is you don't remember, right?

12 A I don't remember, sir. Yeah.

13 Q All right. Was anybody there with you?

14 A Not in that aisle. And the reason why -- can I explain  
15 this? The reason why, because sometimes we have three box or  
16 two box, they split the aisles. So never walk in the same  
17 aisle. So if they give you from 91 to 93, all the box stacker  
18 move from 94 to -- like that.

19 Q So it's your testimony Juan did not have anybody with him,  
20 correct?

21 A No, just him -- just me and him.

22 Q And after that conversation, did you ever have any other  
23 one on one conversation with Mr. Negroni?

24 A Not after that.

25 (Counsel confer)

1 MR. TOPOLSKI: My committee says we're finished, Your  
2 Honor.

3 JUDGE MCCARRICK: Any redirect?

4 MR. RIMBACH: Sir, just one moment.

5 (Counsel confer)

6 MR. RIMBACH: No questions, Your Honor.

7 JUDGE MCCARRICK: Any from the Union?

8 MS. LEE: I just have a few clarifying questions.

9 **REDIRECT EXAMINATION**

10 Q BY MS. LEE: Mr. Contreras, about the meeting where you're  
11 -- there were slides at this meeting and Mr. Ortiz had the  
12 slides up, did he read from any of the slides, if you recall?

13 A No, he didn't read. He just do the slide and he talk  
14 about the Union, but he never focus on that.

15 Q So he never really referred to the slides and went through  
16 each slide and read them did he?

17 A No.

18 MR. TOPOLSKI: Objection, leading.

19 JUDGE MCCARRICK: Sustained.

20 THE WITNESS: No, he never read.

21 Q BY MS. LEE: Did he --

22 JUDGE MCCARRICK: Strike the answer.

23 Q BY MS. LEE: Did he read from the slides?

24 A No.

25 MS. LEE: No further questions.

1 JUDGE MCCARRICK: Recross.

2 MR. TOPOLSKI: None.

3 JUDGE MCCARRICK: Thank you, sir. You're free to step  
4 down.

5 THE WITNESS: You're welcome, sir.

6 JUDGE MCCARRICK: At this point, do you wish to offer  
7 Respondent's 2?

8 THE WITNESS: Your Honor, do I wait outside?

9 JUDGE MCCARRICK: Yes. Outside is fine, sir.

10 MR. TOPOLSKI: Mr. Ortiz is going to be here. It's  
11 probably better we offer it through him.

12 JUDGE MCCARRICK: Yeah. I don't think foundation has been  
13 laid at this point.

14 MR. TOPOLSKI: Yeah, exactly, Your Honor.

15 JUDGE MCCARRICK: Okay. Does General Counsel have another  
16 witness to call?

17 MR. RIMBACH: Yes, Your Honor.

18 JUDGE MCCARRICK: Let's go record.

19 MR. RIMBACH: One moment. I'll go see if he's outside.

20 JUDGE MCCARRICK: Yeah, off the record.

21 (Off the record at 1:34 p.m.)

22 JUDGE MCCARRICK: Let the record reflect that counsel is  
23 returning the two affidavits. All right. Ready to go?

24 All right. Sir, if you'll stand and raise your right  
25 hand?

1 THE INTERPRETER: English?

2 JUDGE MCCARRICK: I don't know.

3 MR. RIMBACH: In Spanish.

4 THE INTERPRETER: Spanish.

5 MR. RIMBACH: Yes, sorry.

6 Whereupon,

7 **JUAN A. URQUIZA**

8 having been duly sworn, was called as a witness herein and was  
9 examined and testified as follows:

10 JUDGE MCCARRICK: Sir, would you state your name for the  
11 record?

12 THE WITNESS: Juan A. Urquiza.

13 JUDGE MCCARRICK: Could you spell Urquiza?

14 THE WITNESS: U-R-Q-U-I-Z-A.

15 MS. LEE: Your Honor, I notice that there's the documents  
16 still existing there from -- should we remove that?

17 JUDGE MCCARRICK: Yeah. Why don't -- why doesn't counsel  
18 take that back. Okay. We're waiting for Ms. Valentine or?

19 MR. RIMBACH: We can go forward.

20 JUDGE MCCARRICK: All right, go ahead.

21 **DIRECT EXAMINATION**

22 Q BY MR. RIMBACH: Good afternoon, Mr. Urquiza.

23 A Good afternoon.

24 Q Are you presently employed?

25 A Yes.

- 1 Q Where are you working?
- 2 A Unified Marina Valley.
- 3 Q How long have you worked for UNFI?
- 4 A More than eight years.
- 5 JUDGE MCCARRICK: I'm sorry. More than?
- 6 THE WITNESS: More than eight years.
- 7 Q BY MR. RIMBACH: So that would be around since 2006?
- 8 A Yes.
- 9 Q What is your current job title with UNFI?
- 10 A Maintenance technician and --
- 11 MS. LEE: I think he said janitor.
- 12 THE WITNESS: -- janitor.
- 13 Q BY MR. RIMBACH: Sorry. Is that janitor and battery
- 14 technician?
- 15 A Yes.
- 16 Q What are your duties as a battery technician?
- 17 A Verify the batteries, technician. As janitor, cleaning.
- 18 Q So your duties as janitor involve cleaning?
- 19 A Yes, cleaning, picking up the trash, and recycling.
- 20 Q What is your work shift?
- 21 A Monday through Friday, from 2 in the afternoon until 10
- 22 p.m.
- 23 Q Is that the second shift?
- 24 A Yes.
- 25 Q Does the Union currently represent employees at UNFI?

- 1 A No.
- 2 Q Is there an effort among employees to join the Union?
- 3 A Yes.
- 4 Q What is the name of that union?
- 5 A Local 166.
- 6 Q Of the Teamsters Union?
- 7 A Yes.
- 8 Q Were you involved in the efforts among employees to join a
- 9 union?
- 10 A Yes.
- 11 Q When did you become involved in those efforts among
- 12 employees to join a union?
- 13 A In 2012.
- 14 Q How have you been involved in those efforts to join a
- 15 union?
- 16 A Passing cars and talking to people.
- 17 Q When you say talking to people, which people are you
- 18 referring to?
- 19 A The workers.
- 20 Q And who did you give out cards to?
- 21 A The workers of UNFI.
- 22 Q How often did you talk to your coworkers about the Union?
- 23 A What?
- 24 Q How many times did you talk to your coworkers about the
- 25 Union?

1 A Two, three times a week.

2 Q Have you ever held a position in the Union?

3 A No.

4 Q Do you know who Carlos Ortiz is?

5 A Yes.

6 Q Who is Carlos Ortiz?

7 THE INTERPRETER: May the interpreter ask him to repeat,  
8 Your Honor?

9 JUDGE MCCARRICK: Yes.

10 THE WITNESS: Union buster.

11 Q BY MR. RIMBACH: What do you mean by union buster?

12 A He does the impossible, so the syndicate does not  
13 represent us.

14 MR. TOPOLSKI: I'm sorry. I didn't understand that.

15 JUDGE MCCARRICK: Would you repeat the translation?

16 THE INTERPRETER: He does the impossible, so the syndicate  
17 does not represent us.

18 JUDGE MCCARRICK: (Spanish spoken) meaning union?

19 THE WITNESS: Yes.

20 Q BY MR. RIMBACH: And do you know where he came from?

21 A Allegedly, he said he lives in Fontana.

22 Q Do you know if the company pays them to come?

23 MR. TOPOLSKI: Objection.

24 JUDGE MCCARRICK: Basis.

25 MR. TOPOLSKI: We've already established Agency basis. I

1 don't --

2 JUDGE MCCARRICK: I think, actually, there's been a --

3 MS. LEE: Yeah.

4 JUDGE MCCARRICK: -- stipulation as to the agency status.

5 So I don't think that's necessary.

6 MR. RIMBACH: Question withdrawn.

7 Q BY MR. RIMBACH: What did Carlos Ortiz do as a union  
8 buster?

9 MR. TOPOLSKI: Objection, characterization.

10 JUDGE MCCARRICK: I understand that. It's a vernacular  
11 term, but I don't think we need to use that, to repeat that  
12 term. It's not necessary.

13 MS. LEE: Your Honor, if I may, I think that that's how  
14 they --

15 JUDGE MCCARRICK: Oh, yes. It --

16 MS. LEE: We've had testimony as --

17 JUDGE MCCARRICK: That may be. All he has to do is refer  
18 to Mr. Ortiz. He doesn't have to characterize what he does.  
19 Just refer to Mr. Ortiz.

20 MR. RIMBACH: Okay.

21 Q BY MR. RIMBACH: What did Carlos Ortiz do with employees?

22 A Meetings.

23 Q So he held meetings with employees?

24 A Yes.

25 Q Did you attend any of these meetings that were conducted



1 by Carlos Ortiz?

2 A Yes.

3 Q About how many of these meetings did you attend?

4 A More than two.

5 Q Do you remember about when these meetings occurred?

6 A The ones that I remember the most were May 5th and May  
7 16th.

8 Q May 5th and May 16th in 2014?

9 A Yes.

10 Q The meeting that was on May 16th, 2014, do you recall  
11 where this meeting occurred?

12 A In the training room near human resources.

13 Q Is human resources near the warehouse?

14 A Yes.

15 Q Do you recall about what time the meeting on May 16th,  
16 2014 occurred?

17 A Around 3:00 in the afternoon.

18 Q Do you recall who called you to the meeting?

19 A Yes.

20 Q Who called you to the meeting?

21 A Javier Oliver, the maintenance manager.

22 Q Do you recall about how many people were present at this  
23 meeting?

24 A Around four or six people.

25 Q Do you recall who was present at this meeting?

1 A Yes.

2 Q Who do you recall was present?

3 THE INTERPRETER: May the interpreter ask him to turn his  
4 face towards the interpreter, so the interpreter can get that  
5 pronunciation clearly?

6 THE WITNESS: Lino Contreras, Armando Perez, Ana Bravo. I  
7 don't remember the other people.

8 Q BY MR. RIMBACH: Do you recall if Mario Hernandez was  
9 present?

10 A Yes.

11 Q Who are Lino Contreras, Mario Hernandez, Armando Perez,  
12 and Ana Bravo?

13 A They're UNFI workers.

14 Q In addition to your coworkers and Carlos Ortiz, was anyone  
15 else present at this meeting?

16 A Yes.

17 Q Who else was present?

18 A Luisa Perez.

19 JUDGE MCCARRICK: P-E-R-E-Z?

20 THE WITNESS: Yes.

21 Q BY MR. RIMBACH: Who is Luisa Perez?

22 A An anti-union.

23 Q How did you meet Luisa Perez?

24 A The company brought her.

25 Q In what language was this meeting conducted?

1 A Spanish.

2 Q To your knowledge, do you know whether Mr. Ortiz speaks  
3 and understands Spanish?

4 A Yes.

5 Q Do you recall how this meeting started?

6 A Yes.

7 Q How did this meeting start?

8 A Started with some projections.

9 JUDGE MCCARRICK: I'm sorry? Some?

10 THE INTERPRETER: Projections.

11 JUDGE MCCARRICK: Projections. Oh.

12 THE INTERPRETER: Slides.

13 JUDGE MCCARRICK: Slides?

14 THE WITNESS: Yes.

15 Q BY MR. RIMBACH: What did Ortiz say at the beginning of  
16 this meeting?

17 A He said that he had had some bad experience in some time  
18 with the Union. That the Union was bad and only wanted our  
19 money.

20 Q Do you recall what Mr. Ortiz said next?

21 A Yes.

22 Q What did he say?

23 A He also mentioned Lowe's and that the campaign was not  
24 very successful, and that the employees were fired.

25 JUDGE MCCARRICK: At Lowe's?

1 THE WITNESS: Yes.

2 Q BY MR. RIMBACH: Do you recall what he said next?

3 A He also said that if the Union won and they would  
4 represent us, that the company could lower our wages, salaries.

5 Q After Mr. Ortiz said that, do you recall if any of the  
6 employees responded to him?

7 A Yes.

8 Q Who responded?

9 A Lino Contreras.

10 Q What did Mr. Contreras say?

11 A He said: Carlos, can the company do that?

12 Q Did Mr. Ortiz respond?

13 A Yes. He said: Yes, because the company pays our  
14 salaries.

15 Q Do you recall anything else Mr. Ortiz said?

16 A Yes.

17 Q What do you recall him saying?

18 A He said that if the Union and they would represent us, and  
19 that if there was no negotiation, and we went to some kind of  
20 strike, they could replace us from temporary people or from  
21 people from the same company but other states.

22 Q Do you recall anything else Mr. Ortiz said?

23 A Yes.

24 Q What else do you recall?

25 A He also said something about another UNFI in Washington.

1 Q What did he say about UNFI in Washington?

2 A That the workers went on a strike and they lost a lot of  
3 money.

4 Q Do you recall anything else Mr. Ortiz said?

5 A No.

6 Q Do you recall anything specific about what was in the  
7 slide presentation?

8 A It represented only negative stuff about the Union.

9 Q But you don't recall anything specific on these slides?

10 A No.

11 Q Do you recall whether Luisa Perez said anything at this  
12 meeting?

13 A No.

14 Q What did she do at the meeting?

15 A She would support him.

16 Q Do you recall if there was a sign-in sheet at this  
17 meeting?

18 A Yes.

19 Q About how long was this meeting?

20 A Around an hour.

21 Q Thank you, Mr. Ortiz. I have no further questions.

22 JUDGE MCCARRICK: Anything from the Union?

23 MS. LEE: None, Your Honor.

24 JUDGE MCCARRICK: Cross.

25 MR. TOPOLSKI: Jencks statement, please.

1 MR. RIMBACH: Your Honor, I have a confidential witness  
2 statement signed by Mr. Urquiza. It consists of six pages.  
3 There's one exhibit attached.

4 JUDGE MCCARRICK: And the date is?

5 MR. RIMBACH: It is dated July 28th, 2014.

6 JUDGE MCCARRICK: All right. Let's go off the record and  
7 give counsel a chance --

8 MR. TOPOLSKI: Thank you.

9 JUDGE MCCARRICK: -- to review it. We'll be off the  
10 record until the attorney reviews your statement. And then  
11 we'll continue examination.

12 THE WITNESS: Okay.

13 JUDGE MCCARRICK: Okay. Off the record.

14 (Off the record at 1:54 p.m.)

15 JUDGE MCCARRICK: Okay, go ahead.

16 MR. TOPOLSKI: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 Q BY MR. TOPOLSKI: Mr. Urquiza, my name is Doug Topolski.  
19 I'm an attorney for UNF, and I'd like to ask you some questions  
20 about your testimony.

21 A It's fine.

22 Q All right. You were one of the witnesses who testified in  
23 the last unfair labor practice trial, correct?

24 A For who?

25 Q For the Union.

1 A I didn't understand the question.

2 JUDGE MCCARRICK: Did you testify -- were you a witness in  
3 a hearing like this a few years ago?

4 THE WITNESS: Yes.

5 Q BY MR. TOPOLSKI: The company knew about that, obviously,  
6 right?

7 A I think so.

8 Q And it's pretty safe to say that you're pretty well-known  
9 as a union supporter in the plant, right?

10 A I think so.

11 Q Now I read your affidavit. And you stated that you did go  
12 to a meeting on May 16th, correct?

13 A Yes.

14 Q And everybody who went to that meeting required to sign  
15 in, correct?

16 A Yes.

17 MR. TOPOLSKI: We're on Respondent's 3 now, right?

18 JUDGE MCCARRICK: Yeah.

19 Q BY MR. TOPOLSKI: I'm putting in front of you, Mr.  
20 Urquiza, what has been marked as Respondent's Exhibit 3. Do  
21 you recognize that document as a copy of the sign-in for the  
22 May 16th, 2014 meeting you attended?

23 A Yes.

24 Q Okay. And that's your signature next to your name,  
25 correct?

1 A Yes.

2 Q Okay. And Ana Bravo is not on this list, is she?

3 A No.

4 Q So she wasn't at that meeting, was she?

5 A I don't remember.

6 Q I also noticed in your affidavit -- let me ask you this  
7 question first.

8 A Okay.

9 Q At this meeting on May 16th, they showed slides at this  
10 meeting, correct?

11 A Yes.

12 Q Okay. And Mr. Ortiz presented at the meeting. He led the  
13 meeting, right?

14 A Yes.

15 Q And the meeting was in Spanish, correct?

16 A Yes.

17 Q And the slides were in Spanish too, weren't they?

18 A Yes.

19 Q And Mr. Ortiz read from those slides, didn't he?

20 A Which one?

21 Q He read the slides as he presented them, didn't he?

22 A Yes.

23 (Counsel confer)

24 THE WITNESS: Not all of them.

25 Q BY MR. TOPOLSKI: I'm sorry?



1 A Not all of them.

2 Q He read all of them, didn't he?

3 A Some he would read, and some others he would talk about  
4 his experience.

5 Q Do you remember what the meeting was about? Do you  
6 remember?

7 A The what? About negative things about the Union.

8 Q You don't remember anything specifically Mr. Ortiz said,  
9 do you?

10 A Which day?

11 Q May 16th.

12 A Yes.

13 Q I'm sorry. Yes, you don't remember or yes, you do  
14 remember?

15 A Yes.

16 JUDGE MCCARRICK: You do remember or you don't remember?

17 THE WITNESS: Yeah, I remember.

18 Q BY MR. TOPOLSKI: Do you remember anything that was on the  
19 slide sitting here today?

20 THE INTERPRETER: I'm sorry.

21 Q BY MR. TOPOLSKI: Do you remember -- sitting here today,  
22 do you remember anything that was on the slides?

23 A Not all of them but most of them.

24 Q What do you remember that was on the slides on May 16th?

25 THE INTERPRETER: May the interpreter ask him to repeat?

1 JUDGE MCCARRICK: Please.

2 THE WITNESS: About the campaign.

3 Q BY MR. TOPOLSKI: But specifically, you don't recall what  
4 any of the slides said; isn't that true?

5 MR. RIMBACH: Objection, asked and answered.

6 JUDGE MCCARRICK: Overruled. It's cross-examination.

7 MS. VALENTINE: Can I ask the --

8 JUDGE MCCARRICK: No, it's not your witness.

9 THE WITNESS: Could you repeat it again?

10 Q BY MR. TOPOLSKI: Sitting here today, do you don't  
11 remember what any of the slides said specifically, do you?

12 A Yes.

13 Q You do remember?

14 A Yes.

15 Q Well, that's what I'm asking you. What do you remember  
16 the slides said specifically?

17 A About Lowe's.

18 Q On May 16th?

19 A Yeah.

20 Q What else?

21 A About the Washington campaign.

22 Q On May 16th?

23 A Yes.

24 Q What else?

25 A That they were going to change us for the Agency or for

1 the Company from other states.

2 Q Anything else?

3 A About lights -- about the slides?

4 Q Yes.

5 A That's what I remember.

6 Q Okay.

7 MR. TOPOLSKI: No further questions.

8 JUDGE MCCARRICK: Redirect.

9 **REDIRECT EXAMINATION**

10 Q BY MR. RIMBACH: Mr. Urquiza, you said that Mr. Ortiz only  
11 read some of the slides; is that correct?

12 A No. No.

13 Q Do you remember if he read the slides or did he just talk  
14 about them?

15 MR. TOPOLSKI: Objection. That's leading.

16 JUDGE MCCARRICK: Basis.

17 MR. TOPOLSKI: It's a leading question.

18 JUDGE MCCARRICK: Overruled.

19 THE WITNESS: Could you repeat it?

20 Q BY MR. RIMBACH: Did Mr. Ortiz read the slides or did he  
21 just talk about them?

22 A Both things.

23 Q But you can't recall which slides he read or which slides  
24 he just talked about; is that correct?

25 A The ones that he read was about Lowe's, the one about

1 Washington Unified.

2 Q Do you recall if he read anything else?

3 A Don't remember, but he read a lot of things.

4 Q Thank you.

5 MR. RIMBACH: No further questions.

6 JUDGE MCCARRICK: Any redirect by the Union?

7 MS. LEE: No, Your Honor.

8 JUDGE MCCARRICK: Any recross?

9 MR. TOPOLSKI: None, Your Honor. We're finished.

10 JUDGE MCCARRICK: All right.

11 Thank you, sir. You're free to step down.

12 All right. Does General Counsel have anything further to  
13 offer? We still need copies I think. I haven't seen a copy of  
14 Joint 1 yet.

15 MR. RIMBACH: Right. I have a copy for you, sir.

16 JUDGE MCCARRICK: Okay. Did everybody else get copies of  
17 Joint 1?

18 MR. TOPOLSKI: I think we did, yeah.

19 JUDGE MCCARRICK: Okay. And two for the reporter? Did  
20 you Joint 1 --

21 (Counsel confer)

22 JUDGE MCCARRICK: So reflect the affidavit of the witness  
23 was just returned.

24 (Counsel confer)

25 JUDGE MCCARRICK: Look, as long as the -- as long as we

1 have two for the reporter, that's all I'm concerned about,  
2 because I'll get one of them as long as she has two of the --  
3 of Joint 1.

4 MR. RIMBACH: The certification of results.

5 JUDGE MCCARRICK: That's fine. Okay, good. And everybody  
6 else got a copy. So --

7 MR. RIMBACH: Also, Your Honor, I think we'd just like to  
8 go off the record for a minute and discuss which exhibits to  
9 offer with respect to the prior case --

10 JUDGE MCCARRICK: All right. Let's go --

11 MR. RIMBACH: -- cases.

12 JUDGE MCCARRICK: -- off the record.

13 (Off the record at 2:21 p.m.)

14 JUDGE MCCARRICK: Okay. We've got some documents the  
15 parties want to offer. General counsel is offering Exhibits 3  
16 through 6, 3 being the decision in 361 NLRB Number 42. General  
17 Counsel's 4 is the petition in 21-RC-126725. GC-5 is the  
18 election agreement in that same case. And GC-6 is the notice  
19 of cancellation of election in that case.

20 Is there any objection to the receipt of those records  
21 into the record?

22 MS. LEE: No, Your Honor.

23 MS. VALENTINE: No.

24 MR. RIMBACH: No objection, Your Honor.

25 JUDGE MCCARRICK: All right. General Counsel's 3 through

1 6 are received.

2 **(General Counsel Exhibit Number 3 through 6 Received into**  
3 **Evidence)**

4 JUDGE MCCARRICK: In addition, Respondent wishes to offer  
5 the petition in case 21-RC-078342 as Respondent's 4.  
6 Respondent's 5, the certification of results in that same case.

7 Is there any objection to the receipt of Respondent's 4  
8 and 5.

9 MR. TOPOLSKI: No, Your Honor.

10 MS. LEE: No, Your Honor.

11 JUDGE MCCARRICK: All right. 4 and 5 are received.

12 **(Respondent Exhibit Number 4 and 5 Received into Evidence)**

13 JUDGE MCCARRICK: Do you wish to offer Respondent's 3? I  
14 don't think that was offered. That was the meeting attendance  
15 for Mr. Urquiza.

16 MR. RIMBACH: Yes, I do wish to offer that.

17 JUDGE MCCARRICK: All right. Any objection to the receipt  
18 of Respondent's 3, that meeting attendance sheet?

19 MR. TOPOLSKI: No, Your Honor.

20 MS. LEE: No, Your Honor.

21 JUDGE MCCARRICK: All right. Respondent's 3 is received.

22 **(Respondent Exhibit Number 3 Received into Evidence)**

23 JUDGE MCCARRICK: Okay. Anything else from General  
24 Counsel?

25 MR. RIMBACH: No, Your Honor.

1 JUDGE MCCARRICK: General Counsel rests.

2 (Counsel confer)

3 MR. RIMBACH: Just subject to rebuttal, Your Honor.

4 JUDGE MCCARRICK: Of course.

5 And is the Respondent ready to go forward?

6 MR. TOPOLSKI: I think, with a five-minute break, we're  
7 ready to roll.

8 JUDGE MCCARRICK: All right.

9 MR. TOPOLSKI: Let me make sure my first witness is here.

10 JUDGE MCCARRICK: Okay. Yeah, off the record.

11 (Off the record at 2:27 p.m.)

12 JUDGE MCCARRICK: All right. Who would call as your first  
13 witness?

14 MR. ADLONG: We're going to call Mr. Ortiz.

15 JUDGE MCCARRICK: Mr. Ortiz, you can come over here and be  
16 sworn. Raise your right hand, sir?

17 Whereupon,

18 **CARLOS ORTIZ**

19 having been first duly sworn, was called as a witness herein  
20 and was examined and testified as follows:

21 JUDGE MCCARRICK: Sir, would you state your name for the  
22 record?

23 THE WITNESS: Carlos Ortiz.

24 JUDGE MCCARRICK: Okay. Mr. Adlong, this is your witness?

25 MR. ADLONG: Yes.

1 MS. LEE: Your Honor, the -- one of the exhibits is still  
2 on the table.

3 JUDGE MCCARRICK: I'm sorry. One of the exhibits?

4 MS. LEE: One of the exhibits is still on the table.

5 JUDGE MCCARRICK: Okay. Why don't you just turn that  
6 over? There you go.

7 MS. LEE: Yeah.

8 **DIRECT EXAMINATION**

9 Q BY MR. ADLONG: Good morning, Mr. Ortiz. Are you  
10 currently employed?

11 A Yes. I'm self-employed.

12 Q Okay.

13 A Okay.

14 MR. ADLONG: Let's stop. We were hoping that you would do  
15 the translation for this. He can speak English, but he'd  
16 prefer to do it in Spanish.

17 THE INTERPRETER: Okay.

18 MR. ADLONG: Okay.

19 THE WITNESS: I'm self-employed.

20 Q BY MR. ADLONG: Have you ever worked for UNFI?

21 A Yes. Okay, I'm sorry.

22 JUDGE MCCARRICK: Let's -- I tell you what. Let's do this  
23 in English.

24 THE WITNESS: No. I feel more comfortable in Spanish.

25 JUDGE MCCARRICK: I'm not sure feeling uncomfortable is



1 sufficient to require.

2 THE WITNESS: I'm not going to interfere anymore. I'm  
3 sorry.

4 JUDGE MCCARRICK: I'm not sure feeling comfortable is  
5 sufficient to require an interpreter. I think -- let's  
6 proceed. If there's a problem with the accent, if I'm not  
7 understanding things, if it appears that the record isn't going  
8 to be clear.

9 MR. ADLONG: I think the issue is that when he says he's  
10 more comfortable, what he's trying to communicate to you, Your  
11 Honor, is that he feels that he might be able to answer some of  
12 these preliminary questions. But when it gets more in depth  
13 regarding the nuances of the Act and the questions and the  
14 presentations, he feels like he's competent to answer in  
15 Spanish, and in his English, he's -- I'm not sure that he feels  
16 comfortable that he's able to do it.

17 JUDGE MCCARRICK: Let's see how it goes. If it appears to  
18 me he's having difficulty, we'll switch over to the  
19 translation. Let's just see how it goes.

20 MR. ADLONG: Okay.

21 Q BY MR. ADLONG: Have you ever worked for UNFI?

22 A Yes.

23 Q How did you come to work for UNFI?

24 A I was called by Kulture to come and help them with the  
25 campaign.

1 Q Okay. In or about -- do you remember the date when you  
2 started working?

3 A It was about April the 20th. April the 25th. Around that  
4 date.

5 Q Of what year?

6 A 2014.

7 Q Okay. Now you're a labor consultant, correct?

8 A Yes.

9 Q How long have you been doing this kind of work?

10 A Eighteen years.

11 Q Okay. About how many organizing drives have you worked on  
12 before?

13 A More than 50 --

14 Q Okay.

15 A -- that went around election.

16 MS. LEE: I'm sorry. I'm having trouble hearing you from  
17 across the room. Could you just talk a little bit --

18 MR. ADLONG: Sure.

19 MS. LEE: -- with a louder volume.

20 Q BY MR. ADLONG: How many times has your conduct resulted  
21 in a complaint in a hearing like this one?

22 A Never.

23 JUDGE MCCARRICK: That's irrelevant.

24 MR. ADLONG: Okay.

25 JUDGE MCCARRICK: I'm not going to permit that kind of

1 testimony.

2 MR. ADLONG: Okay.

3 Q BY MR. ADLONG: Have you ever been called to testify in an  
4 NLRB hearing before?

5 A Never.

6 Q What languages can you speak?

7 A Spanish.

8 Q Okay.

9 JUDGE MCCARRICK: And English.

10 THE WITNESS: And English.

11 Q BY MR. ADLONG: During the UNFI campaign in May 2014, do  
12 you remember who filed the petition?

13 A Teamsters Local 166.

14 Q Okay. And are you familiar -- are you -- do you know who  
15 the business agent is for that union?

16 A Ruben Luna.

17 JUDGE MCCARRICK: I'm sorry, sir?

18 THE WITNESS: Ruben Luna.

19 JUDGE MCCARRICK: Ruben Luna. Thank you.

20 Q BY MR. ADLONG: And how do you know that?

21 A Some of the flyers of the Union was put in his name  
22 indicating those flyers.

23 Q Have you ever been involved in other campaigns when Ruben  
24 Luna was working for Teamster Local 166?

25 A Yes, I have.

1 Q Okay. What type of operation does UNFI have in Moreno  
2 Valley?

3 A It's a distribution center.

4 Q Okay. What employees were involved in the voting unit?

5 A Warehouse employees.

6 Q What was your job while working for UNFI?

7 A To inform employees of the National Labor Relations Act,  
8 to let them know, you know, how collective bargaining works,  
9 and inform them, you know, about unions.

10 Q How did you do this?

11 A In meetings and one-on-one with some of the employees.  
12 Not everybody. I was only in charge, you know, of the Spanish  
13 speaking employees.

14 Q Okay. And where did these activities -- where did you  
15 present the meetings?

16 A On the training room.

17 Q How often would you present meetings to employees?

18 A It was three meetings a week.

19 Q How many topics would you cover each week?

20 A One topic.

21 Q During the week of May 16th, do you remember what topic  
22 you covered?

23 A Collective bargaining negotiations.

24 Q And how many meetings did you present for the collective  
25 bargaining negotiations?

1 A Three meetings.

2 Q Three meetings. Do you remember how many people sat in on  
3 each meeting?

4 A Between 10 to 15 in the first two meetings and four people  
5 in the third meeting.

6 Q And in what language did you do your presentation?

7 A In Spanish.

8 Q When you presented, did you ever have anybody other than  
9 employees who sat in, in the room?

10 A Yes.

11 Q Who sat in?

12 A It was always a witness. On the 16th, it was Luisa Perez.

13 Q I'm going to direct your attention to what's been marked  
14 as Employer Exhibit 2.

15 JUDGE MCCARRICK: Respondent's 2?

16 MR. ADLONG: Yeah, Respondent's 2.

17 JUDGE MCCARRICK: He needs a copy. There's not one up  
18 there.

19 (Counsel confer)

20 Q BY MR. ADLONG: Do you recognize this document?

21 A Yes.

22 Q Can you please tell me what this document is?

23 A This is a PowerPoint presentation that we use in that way.

24 Q Okay. Did you use the English PowerPoint presentation or  
25 the Spanish PowerPoint?

1 A Spanish PowerPoint presentation.

2 MS. VALENTINE: Objection. Is there Spanish included in  
3 this?

4 JUDGE MCCARRICK: Yeah. This is in English.

5 MS. VALENTINE: This is just English.

6 MR. ADLONG: It's coming. I'm marking it right now.

7 MS. VALENTINE: Okay.

8 JUDGE MCCARRICK: This'll be Respondent's 6.

9 **(Respondent Exhibit Number 6 Marked for Identification)**

10 Q BY MR. ADLONG: Do you recognize this document?

11 A Yes, I do.

12 Q Can you please tell me what this document is?

13 A This is the translation to the PowerPoint presentation on  
14 collective bargaining.

15 Q Okay. Now who created the Spanish translation?

16 A I did.

17 Q Off what did you base this Spanish translation?

18 A On the English one.

19 Q Okay. So when you presented in Spanish to the employees,  
20 is it correct that Exhibit -- Respondent's Exhibit 6 is the  
21 presentation you used?

22 A Yes.

23 Q Okay. When you present this to the employees, what -- how  
24 were they able to see the slides?

25 A It was projected.

1 Q And when it was up on the slides, did you read it word for  
2 word?

3 A Word for word.

4 Q Okay. So I'm going to direct your attention to  
5 Respondent's 6, page 1, on the slide on the top right-hand  
6 corner. What does this slide -- did you read this slide  
7 directly to the employees?

8 A Completely.

9 Q Okay.

10 A The whole thing.

11 Q And can you direct -- turning our attention now to  
12 Employer Exhibit 2. Is page 2 the English translation of that  
13 slide?

14 A Yes.

15 Q Okay. So I'm going to now turn your attention to page 2  
16 of Respondent's Exhibit 6, on the bottom left-hand corner.

17 A Uh-huh.

18 Q Why did you create this slide?

19 MS. LEE: I'm sorry. What page was that, Your Honor?

20 THE WITNESS: Page 2.

21 JUDGE MCCARRICK: Page 2.

22 MS. LEE: Page 2 of Respondent's 6 or --

23 JUDGE MCCARRICK: Yes.

24 MS. LEE: Okay.

25 THE WITNESS: On the left corner?

1 Q BY MR. ADLONG: On the left corner. Why did you create  
2 this slide?

3 A Okay. It was --

4 JUDGE MCCARRICK: Left lower corner?

5 THE WITNESS: Lower, yeah.

6 Q BY MR. ADLONG: Left lower corner.

7 A It was a flyer that was put by the Union, basically, you  
8 know, telling employees, you know, that bargain doesn't start  
9 from scratch.

10 Q What --

11 JUDGE MCCARRICK: Well, let me back you up here. The  
12 English version of the PowerPoint presentation that's  
13 Respondent's Exhibit 2 --

14 THE WITNESS: Uh-huh.

15 JUDGE MCCARRICK: -- did you create that? Did you create  
16 Respondent's 2?

17 THE WITNESS: No. No.

18 JUDGE MCCARRICK: So all you did was translate?

19 THE WITNESS: Translate it, yeah.

20 JUDGE MCCARRICK: All right.

21 THE WITNESS: Just translate it, yeah.

22 Q BY MR. ADLONG: So why did you create this slide on the  
23 bottom left-hand corner?

24 JUDGE MCCARRICK: He didn't create it.

25 THE WITNESS: No, I didn't create it.



1 Q BY MR. ADLONG: Okay.

2 JUDGE MCCARRICK: He simply translated it.

3 MR. ADLONG: Okay.

4 THE WITNESS: I did a translation of it.

5 Q BY MR. ADLONG: So when you were presenting the slide, why  
6 did you present this slide to the employees?

7 A Because the Union put up a flyer, you know --

8 Q Okay.

9 A -- making employees believe that those things were going  
10 to happen.

11 Q And what did you want employees to know?

12 A That wasn't true.

13 Q Okay. So what did your -- when you spoke to the employees  
14 and you read this slide word for word, what did you tell them?

15 A We told them, you know, negotiations start, you know, from  
16 when they are --

17 JUDGE MCCARRICK: Wait, wait, wait. Did you make comments  
18 in addition to reading what's in Respondent's Exhibit 6?

19 THE WITNESS: No.

20 JUDGE MCCARRICK: So all you did was read --

21 THE WITNESS: Read.

22 JUDGE MCCARRICK: -- the text --

23 THE WITNESS: The text.

24 JUDGE MCCARRICK: -- that's in Respondent's --

25 THE WITNESS: Uh-huh.

1 JUDGE MCCARRICK: -- Exhibit 6 without making any  
2 comments?

3 THE WITNESS: No, we didn't make any comments. No.

4 JUDGE MCCARRICK: Ever?

5 THE WITNESS: Well, I make only one comment, you know.

6 And it was on first page, you know, second, no predictions.

7 The only thing that I told them, to make sure, you know, that  
8 they understood, you know, the message on that disclaimer was  
9 that the company could have done --

10 JUDGE MCCARRICK: And --

11 THE WITNESS: The company cannot do, you know, four  
12 things.

13 JUDGE MCCARRICK: Okay.

14 THE WITNESS: Make any promises, make any threats, make  
15 any --

16 JUDGE MCCARRICK: Okay.

17 THE WITNESS: -- any interrogation.

18 JUDGE MCCARRICK: I'll let counsel get into whatever he  
19 may. I just want to know if you ever made any comments about --

20 THE WITNESS: No.

21 JUDGE MCCARRICK: -- the 61 pages of text and -- yeah, the  
22 61 pages of text that's contained in this document. You only  
23 made comments with respect to the first page?

24 THE WITNESS: Only to the first page.

25 JUDGE MCCARRICK: Okay.

1 THE WITNESS: Only to the first page.

2 JUDGE MCCARRICK: I don't need to hear what this witness  
3 has to say. The document speaks for themselves about -- at  
4 least about the substance of the document.

5 THE WITNESS: Uh-huh.

6 MR. ADLONG: Okay.

7 THE WITNESS: Okay, go ahead.

8 Q BY MR. ADLONG: So let ask you this. Now you just  
9 testified that on the no predictions you made some comments.  
10 Why did you do that?

11 A One of the things I do, you know, in every single meeting,  
12 that I do, you know, I open up the meetings with that, because  
13 I don't want to be accused of making any promises. I don't  
14 want to be accused of making any threats. I don't want to be  
15 accused of being interrogating anybody.

16 Q So what do you tell them? When you made editorial  
17 comments, what did you tell them with respect to slide two?

18 A I read it and then I made the comments.

19 Q And what were the comments exactly?

20 A That as a representative of the company, I cannot make any  
21 threats of any kind, cannot make any promises. I cannot ask  
22 anybody about any union activity, and that we cannot spy  
23 anything related, you know, to union activity.

24 Q When you were presenting to the employees, why was it so  
25 important to you to stick to the slides?

1 A Because I knew who the audience was. I knew, you know,  
2 that at least two of the employees sitting in that meeting were  
3 union supporters. And the reason that I knew was because they  
4 were the ones that testified in favor of the Union in the  
5 previous campaign.

6 Q In the past when you had campaigns with Teamsters Local  
7 166, was there anything that had happened that also indicated  
8 to you the importance of sticking to the slide?

9 A Yes.

10 MS. LEE: Objection, foundation.

11 THE WITNESS: Yes.

12 MS. LEE: I don't believe there was foundation as to his  
13 presence with other past Teamsters organizing drives.

14 JUDGE MCCARRICK: Sustained.

15 MR. ADLONG: We'll lay it again.

16 Q BY MR. ADLONG: Have you ever had any other Teamster  
17 organizing -- have you participated in other Teamster  
18 organizing drives regarding Local 166?

19 A Yes.

20 Q Was Ruben Luna involved in those?

21 A Yes.

22 Q Okay. So based off your -- how many of those did you  
23 participate in?

24 A Two that I know, you know, that he was involved.

25 Q And based on your experience in those organizing drives,

1    why was it important to you to stick to these slides?

2    A     Because, you know, he filed charges against, you know,  
3    some of the consultants in that campaign. He used the same  
4    tactics that they were using, you know, sending people to the  
5    meetings to try, you know, to get the consultant to say  
6    something that he didn't say, or something.

7    Q     So we're going to turn your attention now to page 2 of  
8    the --

9           JUDGE MCCARRICK: Which exhibit?

10          MR. ADLONG: Respondent's Exhibit 6, bottom right-hand  
11    corner, which is page 8 of Respondent's Exhibit 2.

12    Q     BY MR. ADLONG: Now did you emphasize this slide to the  
13    employees during the presentation?

14    A     Yes, I did.

15    Q     Why did you emphasize this slide?

16    A     Based, you know, on the letter --

17          JUDGE MCCARRICK: What do you mean by emphasize?

18          MR. ADLONG: I was going to ask another question to ask  
19    him to explain what he means by emphasize.

20          JUDGE MCCARRICK: Well, let's do that up front. I don't  
21    know what the terms means.

22          MR. ADLONG: Okay.

23          JUDGE MCCARRICK: It's vague.

24    Q     BY MR. ADLONG: Did you -- what did you do to try to  
25    communicate to the employees to -- so they understood the

1 importance of this slide, which is slide 8 on Respondent 2 and  
2 the bottom right-hand corner on page 2.

3 MS. LEE: Objection, leading.

4 JUDGE MCCARRICK: Overruled.

5 MS. LEE: The witness --

6 JUDGE MCCARRICK: Overruled.

7 THE WITNESS: That nobody can tell them, you know, that  
8 they're going to be losing something.

9 JUDGE MCCARRICK: No. What did you do?

10 THE WITNESS: Huh?

11 JUDGE MCCARRICK: What did you do? You said all you did  
12 with respect --

13 THE WITNESS: It is here.

14 JUDGE MCCARRICK: You indicated to me, when I asked you,  
15 that all you did was read page 8.

16 THE WITNESS: Yeah. And that's what I did, sir.

17 JUDGE MCCARRICK: And what about reading page 8 -- was  
18 there anything different about the way you read page 8 --

19 THE WITNESS: No.

20 JUDGE MCCARRICK: -- as opposed to other pages.

21 Q BY MR. ADLONG: Now how during your presentations do you  
22 tell -- during your presentations, what do you tell employees  
23 about collective bargaining agreement -- about collective  
24 bargaining?

25 A You know, I read --

1 MS. LEE: Objection, Your Honor.

2 THE WITNESS: -- them the presentation.

3 JUDGE MCCARRICK: Hold on.

4 Basis?

5 MS. LEE: Objection, Your Honor. Are we talking about all  
6 presentations or this specific presentation, because if it's --

7 JUDGE MCCARRICK: The only presentation that's relevant is  
8 this one.

9 MS. LEE: Okay, because he said presentations.

10 JUDGE MCCARRICK: I understand.

11 MS. LEE: Plural. So --

12 JUDGE MCCARRICK: The only one that's relevant is this  
13 one.

14 MR. ADLONG: Okay.

15 Q BY MR. ADLONG: During this presentation, what did you  
16 tell employees about collective bargaining?

17 A Well, you know, this one, the presentation, I read the  
18 whole thing. I went through it. You know, the most important  
19 thing was, you know, that we mention that, you know, in a few  
20 of the pages here, that as a result of negotiations, employees  
21 can come out with more, the same, or less.

22 Q At what point during the presentation did you tell  
23 employees that they would lose wages if the Union got in?

24 A Never.

25 MS. LEE: Objection, leading.

1 JUDGE MCCARRICK: Overruled.

2 MS. LEE: No foundation.

3 JUDGE MCCARRICK: This is rebuttal. This is the nature of  
4 rebuttal. I'll allow it. Go ahead.

5 MR. ADLONG: Okay. Never.

6 JUDGE MCCARRICK: I think you need to ask the question  
7 again, because I think there was -- I think we talked over the  
8 answer.

9 MS. LEE: I'm sorry, Your Honor.

10 Q BY MR. ADLONG: At what point during the presentation did  
11 you tell the employees that they would lose wages if the Union  
12 came in?

13 A Never.

14 Q At what point during the presentation -- okay. I'm going  
15 to turn your attention to the day of May 9.

16 A Okay.

17 Q What do you remember about May 9th?

18 A May 9th, I arrived to the facility around 11 a.m. in the  
19 morning. I had a meeting scheduled for 2:15 p.m.

20 JUDGE MCCARRICK: I'm sorry. What --

21 THE WITNESS: I got a meeting scheduled --

22 JUDGE MCCARRICK: No. What time did you get there?

23 THE WITNESS: 11 a.m.

24 JUDGE MCCARRICK: Go ahead.

25 THE WITNESS: I got a meeting scheduled for 2:15. Juan



1 Negrone and John Henderson were doing make-up meeting, in  
2 English, at 12:15 or 12:30. I met with them at 11:00, you know  
3 -- had, you know, a little conversation between the three of  
4 us, went and grabbed something to eat, came back. They did the  
5 meeting. I start working on the translations for the next week  
6 presentation. And then I did the 2:15 meeting.

7 Q BY MR. ADLONG: I'm going to show you a document that's  
8 been marked as Respondent's Exhibit Number 7. Can you tell me  
9 what this document is?

10 A This is a presentation that we use.

11 Q Okay. And this version, in what language is this?

12 A Spanish.

13 Q Who translated this presentation?

14 A I did.

15 Q I'm going to show you another document, which we'll mark  
16 as Respondent's Exhibit 8.

17 **(Respondent Exhibit Number 8 Marked for Identification)**

18 Q BY MR. ADLONG: Can you tell me what this presentation is?

19 A It is the presentation that we use -- was used in English.

20 Q Okay. Now to create the Spanish version, which is  
21 Respondent's Exhibit 7 --

22 A Uh-huh.

23 Q -- what did you translate from?

24 A From the English one.

25 Q And has that been marked as Respondent's Exhibit 8?

1 A Yes.

2 Q Now when you did this presentation on May 9th, do you  
3 remember some of the people that were present?

4 JUDGE MCCARRICK: I think we got you assuming facts not in  
5 evidence here. There isn't any testimony as to what 7 or 8  
6 are.

7 Q BY MR. ADLONG: Let me ask you this. You --

8 JUDGE MCCARRICK: Other than PowerPoint presentations.

9 MR. ADLONG: Okay. I thought he had testified that --

10 JUDGE MCCARRICK: No.

11 MR. ADLONG: We'll clean it up really fast.

12 Q BY MR. ADLONG: So, on May 9th, you said you did a  
13 presentation at 2:15; is that correct?

14 A Uh-huh.

15 Q What documents did you present to the employees?

16 A The one that you have in front of you. These ones here.

17 Q Okay. And you -- which version did you present?

18 A The Spanish one.

19 Q Okay. And when you would present it to them, how were the  
20 employees able to see this information?

21 A Through the projection.

22 Q Okay. And at what time did you do your presentation?

23 A 2:15 p.m.

24 Q Okay. And --

25 JUDGE MCCARRICK: Are you saying -- I'm sorry. 2:15 or

1 2:15.

2 THE WITNESS: Fifteen.

3 JUDGE MCCARRICK: One-five?

4 THE WITNESS: Yeah.

5 MS. VALENTINE: Objection. There's no allegations about a  
6 group meeting that was in the complaint on May 9.

7 JUDGE MCCARRICK: I don't think that's the point.

8 MR. ADLONG: I think you're right, Your Honor.

9 JUDGE MCCARRICK: I think --

10 Do you want to explain the relevance of the documents? I  
11 think I know what they are. But why don't you tell me what the  
12 relevance of 7 and 8 is.

13 MR. ADLONG: At least in our view, this goes directly to  
14 some of the claims and statements that the witnesses are making  
15 with respect to what happened. They're making claims about  
16 things that were said. And these document speak directly to  
17 them.

18 MS. VALENTINE: I don't -- Your Honor, I still don't  
19 understand what the relevance is, because those have --

20 MR. TOPOLSKI: The witnesses made claims that -- I'm  
21 sorry.

22 MR. ADLONG: The witnesses made claims that, you know,  
23 unlawful things are said about Lowe's and that we were saying,  
24 to their explanation, were things bad. And they were saying  
25 that we were reading slides. We're going to present the

1 information that was presented to the employees to let the  
2 record make clear what was said. So this goes directly to the  
3 allegations of what they said and also goes to the credibility  
4 of the witnesses.

5 JUDGE MCCARRICK: Well, I --

6 MS. VALENTINE: I'm sorry. But we didn't have any  
7 testimony about presentations and group meetings on May 9th.

8 JUDGE MCCARRICK: That's right.

9 MS. VALENTINE: So why would --

10 JUDGE MCCARRICK: I thought it had to do with something  
11 else.

12 MR. ADLONG: But whether it was on May 9th or -- this --  
13 like I said, it goes directly to the credibility. Just because  
14 they said it happened on May 16th -- just because it happens on  
15 May 16th -- because they claim it happens on May 16th doesn't  
16 mean it does. This goes to show that hey, they can't even  
17 remember when things happened. And if you turn your attention,  
18 for example --

19 JUDGE MCCARRICK: Well, that goes to credibility. You've  
20 already -- that --

21 MR. ADLONG: Yeah.

22 JUDGE MCCARRICK: That's been established through --  
23 that's already been established through documents in the record  
24 and testimony. I thought this had to do with what this witness  
25 was doing at a particular point in time.

1 MR. ADLONG: Well, and it's going to get to that too as we  
2 carry on, after we explain the presentation, who was present,  
3 what happened during the presentation, and what Mr. Ortiz did  
4 with other individuals following that presentation. This  
5 speaks directly to the allegation that, on May 9th --

6 JUDGE MCCARRICK: Let's excuse the witness. Yeah.

7 MR. ADLONG: Okay.

8 JUDGE MCCARRICK: Sir, if you'll step outside for a  
9 minute.

10 THE WITNESS: Okay.

11 JUDGE MCCARRICK: Let the record reflect the witness has  
12 left the hearing room.

13 I thought this had to do with what occurred at a  
14 particular point in time. Mr. Perez --

15 MR. TOPOLSKI: That's right, Your Honor.

16 JUDGE MCCARRICK: -- I see has testified that he had a  
17 conversation with --

18 MR. TOPOLSKI: Mr. Negroni.

19 JUDGE MCCARRICK: -- Mr. Negroni around 3:00 on May 9th.

20 MR. TOPOLSKI: That's one aspect of what we're going to go  
21 into, Your Honor.

22 MR. ADLONG: This is --

23 MS. VALENTINE: But --

24 MR. ADLONG: This touches where Mr. Negroni was on May  
25 9th. This touches on what was allegedly said during this

1 meeting. This touches on when it was said. And it touches  
2 on --

3 JUDGE MCCARRICK: May 9th has nothing to do with  
4 PowerPoint though.

5 MR. TOPOLSKI: Well, Your Honor --

6 MR. ADLONG: No.

7 MR. TOPOLSKI: -- if I may. Mister --

8 JUDGE MCCARRICK: No, you may not, because this is his  
9 witness.

10 MR. ADLONG: No. These are -- it does have to do with the  
11 PowerPoint, because, for example, if you turn to page 8 of this  
12 exhibit, there is a whole discussion regarding Lowe's. And  
13 this gets directly to Mr. Urquiza.

14 JUDGE MCCARRICK: I don't care about that. I really don't  
15 care that it happened on May 9th or May 16th. If it's going to  
16 credibility, if that's your point, then the witness testimony  
17 would be in conflict with what you're already got in the  
18 record, because if there's nothing about Lowe's in Respondent's  
19 2 and Respondent's 6, you don't have to show me Respondent's 7  
20 and 8.

21 MR. ADLONG: Then the point is made.

22 JUDGE MCCARRICK: So you can certainly argue from that  
23 point of view. The fact that it happens to be in another one  
24 isn't very persuasive as far as I'm concerned.

25 MR. ADLONG: Okay. That works.

1 MR. TOPOLSKI: Thank you, Your Honor.

2 JUDGE MCCARRICK: All right.

3 MR. TOPOLSKI: Thanks for cleaning that up.

4 JUDGE MCCARRICK: Let's bring the witness back in. Okay.

5 We're still on the record; are we not? Okay, go ahead.

6 MR. ADLONG: Okay.

7 Q BY MR. ADLONG: So, on May 9th, you arrived about what  
8 time to the facility?

9 A 11 a.m.

10 Q Okay. And after you arrived, can you tell me what you did  
11 next?

12 A Had a meeting, you know, with John Henderson and Juan  
13 Negroni.

14 MS. VALENTINE: Objection. We already went over this  
15 testimony.

16 JUDGE MCCARRICK: I just want to get it -- I want to put  
17 it back in perspective, so that I understand --

18 MS. VALENTINE: Okay.

19 JUDGE MCCARRICK: -- I understand it.

20 MR. ADLONG: Okay.

21 Q BY MR. ADLONG: And about how long did that meeting with  
22 Mr. Henderson and Mr. Negroni last?

23 A No more than 15 minutes. Then we went outside and pick up  
24 something to eat.

25 Q Okay. Now when you went to -- outside to have something

1 to eat, about what time did you return?

2 A Probably noon.

3 Q Noon. And that -- what happened after you returned to --  
4 from eating?

5 A John Henderson and Juan Negrone went into the training  
6 room to have the English meeting.

7 Q Okay. And while they're in the training room having the  
8 English meeting, what were you doing?

9 A I was working the translation on an office close by the  
10 training room.

11 Q Okay. And about how long did that presentation last?

12 A Between an hour and hour and 15 minutes.

13 Q Okay.

14 A Fifteen minutes.

15 Q And when that presentation ended, do you know where Mr.  
16 Negrone and Mr. Henderson went?

17 A Henderson went home. Negrone came to help me with the  
18 translation, because there were only a few minutes before we  
19 start the meeting.

20 Q Okay. So what meeting are you talking about that you had  
21 to start?

22 A The -- this presentation right here.

23 Q Okay. So --

24 JUDGE MCCARRICK: Referring to --

25 THE WITNESS: Number 8.



1 JUDGE MCCARRICK: -- Respondent's 7 and 8?

2 MR. ADLONG: Respondent's 7 and 8.

3 Q BY MR. ADLONG: And at what time did you make that  
4 presentation?

5 A It was scheduled for 2:15.

6 Q Okay. Do you know if you scheduled -- if you started at  
7 2:15 or maybe --

8 A I don't recall, you know. Usually, you know, we start a  
9 little bit later than the time, you know, because people keep  
10 coming in.

11 Q Okay. Do you remember if Armando Perez was present  
12 during --

13 A He was present, and Juan Urquiza was present too.

14 Q Okay. Now can you tell me if there's anything memorable  
15 that happened during that --

16 A Which one?

17 Q Well, first one, what -- let me ask you this. What  
18 language did you present the information in?

19 A In Spanish.

20 Q In Spanish. Was there anything memorable that happened  
21 during that meeting?

22 A On the moment, you know, Mr. Perez came into the room, you  
23 know, he start making the statements, no questions, about the  
24 company being an at will employer, that the company want to get  
25 rid of employees. And that was the reason, you know, they were

1 using one company, Rollings Company, that they wanted to get  
2 rid of them.

3 Q Okay. Was Mr. Perez sitting down the whole time he made  
4 these comments?

5 MS. VALENTINE: Objection, Your Honor. Now we're going  
6 into the details and the content of the meeting of what  
7 happened on May 9th. And again, I'm not sure what the  
8 relevance is, Your Honor.

9 JUDGE MCCARRICK: I'm not sure either.

10 MR. ADLONG: It's going to -- it'll go to the duration.  
11 They're just two questions.

12 JUDGE MCCARRICK: You can ask him about that. If you want  
13 to go to the duration of the meeting, that's fine. But I don't  
14 need to know what happened --

15 MR. ADLONG: Okay.

16 JUDGE MCCARRICK: -- in terms of the contents.

17 THE WITNESS: Well, he keep repeating himself, you know,  
18 the whole meeting. He got to a point --

19 MS. VALENTINE: Objection. There's not a question.

20 JUDGE MCCARRICK: Well, it's nonresponsive.

21 MS. VALENTINE: Yeah.

22 Q BY MR. ADLONG: Well, let me ask you this. How long did  
23 the meeting last, more or less?

24 A About an hour-and-a-half.

25 Q Okay. So this meeting -- why did this meeting last a

1 little bit longer than they usually do?

2 A Because Mr. Perez, you know, keep coming with the same  
3 question and same question.

4 Q Okay. Now when the meeting ended, where did all the  
5 employees go?

6 A They went back to work.

7 Q Okay. And after all the employee left and went back to  
8 work, what did you do next?

9 A We went to the HR office, you know.

10 Q Let me just -- when you say we, who are you referring to?

11 A Juan Negrone and myself.

12 Q And was he present during the whole meeting?

13 A Yes, he was.

14 JUDGE MCCARRICK: I'm sorry. After this meeting on May  
15 9th, you and Mr. Negrone went where?

16 THE WITNESS: To the HR department, human resources  
17 department.

18 Q BY MR. ADLONG: Now how far is the human resources  
19 department from where you conducted the meeting?

20 A Next door.

21 Q Next door. Okay. If you had to estimate in feet, about  
22 how is it?

23 A Maybe 10 feet.

24 Q Okay. Did you have to walk across the warehouse floor at  
25 all to get there?

1 A No.

2 Q No. After going to the HR office, what did you do next?

3 A We went home. I went home, you know. Juan went to his  
4 hotel.

5 Q Okay.

6 JUDGE MCCARRICK: Went to his?

7 THE WITNESS: Hotel. He was staying right here.

8 JUDGE MCCARRICK: Well, let's be a little more specific.

9 After you went to the HR department, where did you leave to?

10 THE WITNESS: To the parking lot.

11 Q BY MR. ADLONG: Did you walk out to the parking lot  
12 together?

13 A Yes.

14 Q You and Juan?

15 A Uh-huh.

16 Q Okay. When you walked to the parking lot, did you see  
17 Juan get into his car?

18 A Yes.

19 Q Okay. And I assume you got into your car. When you drove  
20 away, did you see Juan drive away?

21 A Yes.

22 Q Okay.

23 (Counsel confer)

24 MR. ADLONG: So, first, we'd like to move for admission of  
25 Employer -- or Respondent -- excuse me -- Exhibit 2.

1 JUDGE MCCARRICK: All right. Let's do it one at a time.  
2 Any objections to the receipt of Respondent's 2? That's  
3 the PowerPoint presentation in English.

4 MS. LEE: I object. I'm not sure what the relevance is.

5 JUDGE MCCARRICK: Any other objections?

6 MS. LEE: Is there -- no. I'm sorry. Respondent's 2?

7 JUDGE MCCARRICK: Respondent's 2.

8 MS. LEE: Oh, no. I have no objection to that, Your  
9 Honor. I'm sorry. I got it mixed up with the PowerPoint  
10 presentation.

11 JUDGE MCCARRICK: 7 and 8 or --

12 MS. LEE: Right.

13 JUDGE MCCARRICK: Yeah, 7 and 8.

14 MS. LEE: Right.

15 JUDGE MCCARRICK: From General Counsel, any objection to  
16 2?

17 MS. VALENTINE: No, Your Honor.

18 JUDGE MCCARRICK: 2 is received.

19 **(Respondent Exhibit Number 2 Received into Evidence)**

20 MR. ADLONG: We move for admission of Respondent's Exhibit  
21 6.

22 JUDGE MCCARRICK: Any objection to 6?

23 MS. LEE: No objection, Your Honor.

24 JUDGE MCCARRICK: That's the translation of Respondent's  
25 2.

1 MS. VALENTINE: I have some questions about it.

2 JUDGE MCCARRICK: You have voir dire?

3 MS. VALENTINE: Yes.

4 (Counsel confer)

5 **VOIR DIRE EXAMINATION**

6 Q BY MS. VALENTINE: Mr. Ortiz, I notice that the type font  
7 on the first -- okay. Are we looking at the same one? Okay.  
8 The second slide on the first page, at the top, that says no  
9 predictions, the font is different colors. Is there a reason  
10 for that?

11 A No. You know, I did exactly, you know, what was on the  
12 English.

13 Q Uh-huh.

14 A It's translated and use the same colors.

15 JUDGE MCCARRICK: Same colors. Yeah.

16 Q BY MS. VALENTINE: And actually, about the translation,  
17 what is your -- not -- what is your experience in translation?

18 A Well, I've been doing --

19 Q And since we're placing something in Spanish in the  
20 record, I don't know if we know that it's identical to the  
21 English version that's not -- I don't know if it's -- it's not  
22 a certified translation.

23 A It's not a certified translation.

24 Q Okay. So what is your background that qualifies you to  
25 perform this translation accurately?

1 A Well, I very good, you know, translating. You know, I  
2 have been doing it, you know, for 19 -- 18 years. Things that  
3 I don't know, you know, I go to the dictionary. I use, you  
4 know, the translation services, you know, in the internet, you  
5 know, for something that I don't know, and make sure, you know,  
6 that it goes in exactly, you know, the way that it's supposed  
7 to read. My sister, you know, she's a translator. She's  
8 certified. And when I have any issues, you know, I always call  
9 her.

10 Q But she doesn't perform the translation for you?

11 A Not always, you know, but things where --

12 JUDGE MCCARRICK: Well, I'm not --

13 THE WITNESS: -- I'm having problems --

14 JUDGE MCCARRICK: The only thing I'm concerned about is  
15 this particular one here.

16 THE WITNESS: Uh-huh.

17 JUDGE MCCARRICK: Did your sister assist you at all with  
18 respect to Respondent's 6?

19 THE WITNESS: Not on all, you know, times.

20 Q BY MS. VALENTINE: This one.

21 JUDGE MCCARRICK: No, no, no.

22 Q BY MS. VALENTINE: We're only talking about this one.

23 MR. ADLONG: Your Honor, if I might interject to this line  
24 of questioning. It's irrelevant whether it's a certified  
25 translation or not. This is what was put before the employees.

1 This is what they saw, so --

2 JUDGE MCCARRICK: Well, that's what you say.

3 MS. VALENTINE: Actually.

4 JUDGE MCCARRICK: I don't know.

5 MS. VALENTINE: I don't know that.

6 JUDGE MCCARRICK: I don't know. Nobody has had a chance  
7 to --

8 MS. VALENTINE: And I don't even know what this is.

9 JUDGE MCCARRICK: -- compare it line for line.

10 MR. ADLONG: Well, he's put it in and he's testified that  
11 this is what I used and this is what I've given the employees.

12 JUDGE MCCARRICK: But that's the whole point of cross-  
13 examination.

14 MR. ADLONG: Okay.

15 MS. VALENTINE: But I'm entitled to ask --

16 JUDGE MCCARRICK: Yeah, of course.

17 MS. VALENTINE: -- what -- okay.

18 Q BY MS. VALENTINE: And the date, April 10th, that's -- at  
19 the top, does that have any relevance to you?

20 A That's when I send the copy to the attorneys.

21 Q Uh-huh, okay. And is this document the -- are -- were  
22 there any changes made to this document --

23 A No.

24 Q -- after --

25 A No.



1 Q You don't even know what I was going to ask. After --

2 JUDGE MCCARRICK: Let her finish her question.

3 Q BY MS. VALENTINE: After the translation that you made.

4 JUDGE MCCARRICK: Hold on. Hold on.

5 Let her finish her question before you answer, because  
6 we're going to have a terrible transcript if we don't.

7 So go ahead and ask your question again, Ms. Valentine.

8 Q BY MS. VALENTINE: Were there any changes made to this  
9 document with the April 10th, 2015 -- because I think you  
10 testified you made this translation sometime about year ago.  
11 So were there any changes made to this after your translation?

12 A No.

13 Q Okay. Let me just see if I have any further questions.

14 MS. VALENTINE: Nothing further. I have no objection.

15 JUDGE MCCARRICK: All right. Respondent's 6 is received.

16 **(Respondent Exhibit Number 6 Received into Evidence)**

17 JUDGE MCCARRICK: All right. How about 7 and 8?

18 MR. ADLONG: So we're going to move for admission of 7 and  
19 8 too.

20 JUDGE MCCARRICK: Objection.

21 MS. VALENTINE: Yes.

22 JUDGE MCCARRICK: 7 and 8 are the May 9 PowerPoints.

23 MS. VALENTINE: Right. I mean I'd object based on  
24 relevance and also --

25 JUDGE MCCARRICK: I agree.

1 MS. VALENTINE: And -- okay.

2 JUDGE MCCARRICK: I agree.

3 MS. VALENTINE: Yeah.

4 JUDGE MCCARRICK: They're not going to come in. If you'd,  
5 I'll place them in the rejected exhibits file.

6 MR. ADLONG: That would work.

7 JUDGE MCCARRICK: All right. We'll place Respondent's 7  
8 and 8 in the rejected exhibits file.

9 All right. Any redirect? I assume there's nothing  
10 further on cross. Or is there?

11 MS. VALENTINE: Oh, no. No. That was voir dire on the --  
12 just the document.

13 JUDGE MCCARRICK: Voir dire.

14 MS. VALENTINE: Are we done on the --

15 JUDGE MCCARRICK: Ah.

16 MS. VALENTINE: Oh, sorry.

17 JUDGE MCCARRICK: I'm sorry.

18 MS. VALENTINE: Were we done?

19 JUDGE MCCARRICK: It sounded like cross. I think you're  
20 right. That was just voir dire.

21 MS. VALENTINE: Or were we. I was just --

22 JUDGE MCCARRICK: They were offering documents.

23 (Counsel confer)

24 MR. ADLONG: I was just moving --

25 JUDGE MCCARRICK: Moving documents into the record. Is

1   there any further examination of this witness?

2 (Counsel confer)

3 MR. ADLONG: No further questions.

4 JUDGE MCCARRICK: Okay. Cross.

5 MS. VALENTINE: Thank you, Your Honor. Could I have a  
6 couple minutes?

7 JUDGE MCCARRICK: Sure. Let's go off the record. Let's  
8 kind of -- let's take a break. We've been on the record for  
9 almost -- well, over two hours. So let's take a break, 15  
10 minutes, till quarter to 4.

11 (Off the record at 3:45 p.m.)

12 JUDGE MCCARRICK: Okay. Cross.

13 MS. VALENTINE: Thank you.

14 CROSS-EXAMINATION

15 Q BY MS. VALENTINE: Just a few questions for you, Mr.  
16 Ortiz. So you testified that you inform employees about the  
17 National Labor Relations Act. And what is the mechanism that  
18 you use to do that?

19 A The first meeting that we do, usually, you know, we had a  
20 Power Point that talks about the National Labor Relations Act  
21 and the classes.

22 Q I'm sorry?

23 A We -- on the first presentations that we do for the  
24 employees, you know, we talk about the National Labor Relations  
25 Act.

1 Q Uh-huh, okay. So it -- okay.

2 A It is on the Power Point.

3 Q Okay. And also about the collective bargaining?

4 A We did it in this presentation, yeah.

5 Q Okay.

6 JUDGE MCCARRICK: I think the witness was referring to one  
7 of the --

8 MS. VALENTINE: I think Respondent's --

9 JUDGE MCCARRICK: -- Respondent's Exhibit 2.

10 MS. VALENTINE: 2 and 3.

11 THE WITNESS: 2 and 6.

12 JUDGE MCCARRICK: 2 and 6.

13 MS. VALENTINE: 2 and 6, right. Okay. And somehow, I  
14 think I did not -- well, let me back up.

15 Q BY MS. VALENTINE: You said that you focused or -- on or  
16 emphasized certain slides for one or more reasons. Which ones  
17 were those again?

18 A You know, we did the whole presentation and I read the  
19 whole presentation the same way. I didn't focus in on one.

20 Q Okay. There's no particular slide that you focused in on  
21 at any --

22 A No.

23 Q -- particular meeting or --

24 A No.

25 Q -- point in any meeting?

1 A No.

2 Q Okay. Now these meetings that you held at -- with the  
3 Spanish speaking employees at UNFI, how long did the average  
4 meeting lasted?

5 A About an hour-and-a-half.

6 Q That was the average?

7 A The average, you know. Probably one, you know, when the  
8 meeting went longer than that.

9 JUDGE MCCARRICK: I'm sorry. The average meeting was how  
10 long?

11 THE WITNESS: An hour-and-a-half. Spanish always, you  
12 know, takes a little bit longer than English.

13 Q BY MS. VALENTINE: And that's because you read every  
14 single slide verbatim?

15 A Because I read it, yeah.

16 Q Okay. I have to wonder how long it would take to do that  
17 right now. I'm not going to ask you to do that, but --

18 A Uh-huh.

19 JUDGE MCCARRICK: I won't permit you to do that.

20 MS. VALENTINE: Okay. Good. I'm glad. I'm glad.

21 Q BY MS. VALENTINE: Okay. And so, then the meeting with --  
22 the meeting then on May 9th, that wasn't an unusually long  
23 meeting then?

24 A No, it was. It was.

25 Q Okay.

1 A You know, it was probably -- probably that was one, you  
2 know, that lasted a little bit more than an hour-and-a-half.

3 Q It was long then an hour-and-a-half?

4 A Yeah, because Armando, you know, keep coming with the same  
5 question and the same question.

6 Q Okay.

7 A At what point --

8 Q That's fine.

9 A Okay.

10 Q Thank you. And how much time did he -- did his questions  
11 or comments take would you say?

12 A No. He was talking about that the company --

13 JUDGE MCCARRICK: No, no, no.

14 MS. LEE: Objection.

15 Q BY MS. VALENTINE: I asked about a comment not time.

16 MS. LEE: Objection, nonresponsive.

17 JUDGE MCCARRICK: Sustained.

18 THE WITNESS: No, I cannot tell you, you know, how much  
19 time, but --

20 Q BY MS. VALENTINE: Okay. Well, you --

21 A -- he keep coming with the same --

22 Q I get it. You suggested that his conduct made the meeting  
23 take longer than usual.

24 A Well, you know, it was not, you know, through the whole  
25 meeting, because at one point, Mr. Negroni ask him, you know,

1 to please, you know, be respectful and give the opportunity,  
2 you know, to everybody else in the meeting to ask question.

3 And --

4 Q Again, that's fine. Thank you.

5 A Okay.

6 Q Okay. And so, given his conduct that was, perhaps,  
7 disrespectful or disruptive in that meeting, was his conduct --  
8 do you know if the Employer took -- did you report his conduct  
9 to the Employer?

10 A There was a report, you know, what happened in the  
11 meeting.

12 Q Okay. So his --

13 A On my part -- it was available report.

14 Q Okay. Do you know if there was any action taken --

15 A No.

16 Q -- against him as a result?

17 A No. It didn't took any action.

18 Q Okay. Now you said early in your testimony that you've  
19 been doing this for 18 years. I did not catch how many  
20 campaigns you said you've been a part of. And by campaigns I  
21 guess that means in your role as union labor consultant, you  
22 are giving the --

23 A Uh-huh. And that --

24 Q -- messages --

25 A -- went through an election, you know, that went through a

1 whole process, more than 50.

2 Q More than 50 that went to an election?

3 A Yes.

4 Q Okay. As compared to what, there was no --

5 A You know, some card signing --

6 Q Okay. So --

7 A -- type of campaigns.

8 Q I see.

9 A We got involved, you know, before the petition gets filed.

10 Q I see, and prepared. Isn't it true that many employers,  
11 once they realize who the open union supporters are, they  
12 exclude them from the meetings of the labor consultants to  
13 avoid --

14 MR. ADLONG: Objection.

15 Q BY MS. VALENTINE: -- these sort of confrontations?

16 MR. ADLONG: Objection.

17 JUDGE MCCARRICK: Basis?

18 MR. ADLONG: It's irrelevant. She's asking about other  
19 employers. We're talking about UNFI.

20 JUDGE MCCARRICK: Sustained, speculative.

21 MS. VALENTINE: Well, I'm getting to a point. Since I'm  
22 cross-examining him, I'm respectfully -- my next question would  
23 be why did that not happen here.

24 JUDGE MCCARRICK: Well, you're assuming facts --

25 MR. ADLONG: Object.



1 JUDGE MCCARRICK: You're assuming --

2 MS. VALENTINE: But it's cross-examination, Your Honor. I  
3 mean isn't that -- Your Honor --

4 JUDGE MCCARRICK: Well, I mean you still can't ask  
5 irrelevant questions on cross-examination. And I find it to be  
6 irrelevant, because what happens at other employers is not  
7 relevant to --

8 MS. VALENTINE: Okay.

9 JUDGE MCCARRICK: -- what happened here. It's a different  
10 employer.

11 MS. VALENTINE: Okay. Can I rephrase it? And I wonder if  
12 this will make it different.

13 JUDGE MCCARRICK: Of course. You can always attempt to  
14 rephrase something.

15 Q BY MS. VALENTINE: Is --

16 MS. VALENTINE: Okay.

17 Q BY MS. VALENTINE: Is it, in the labor -- in the industry  
18 of labor consultants, is it not a common practice to exclude  
19 the known union supporters from meetings? Is it -- is that not  
20 true?

21 MR. ADLONG: Objection, irrelevant. We're dealing with  
22 8(a)(1) statements. What's the industry and who part -- who  
23 attends what meeting.

24 JUDGE MCCARRICK: Well, that simply goes to the question  
25 of why these people were present. I assume the argument is

1 going to be from the Employer that, you know, it was known who  
2 these people were. And so, they weren't allowed to be present.  
3 I still -- I think it's simply too tenuous. I'm not going to  
4 allow it. I'm not going to allow it. It's too tenuous. It's  
5 too attenuated --

6 MS. VALENTINE: Okay.

7 JUDGE MCCARRICK: -- based on what happens in the  
8 industry.

9 MS. VALENTINE: Okay.

10 JUDGE MCCARRICK: What's relevant is what happened here.

11 MS. VALENTINE: Okay. Okay. I'll ask this.

12 Q BY MS. VALENTINE: After that meeting, do you know if any  
13 -- if there was any discussion of --

14 JUDGE MCCARRICK: Which meeting?

15 MS. VALENTINE: After the meeting of May 9th, where this  
16 disruptive conduct that was described occurred. I believe that  
17 was the date.

18 Q BY MS. VALENTINE: Right?

19 A Uh-huh.

20 Q Okay. After the May 9th meeting, was there any discussion  
21 about excluding Mr. Perez or any other union supporters?

22 MR. ADLONG: Objection. Again, that's irrelevant.

23 JUDGE MCCARRICK: Overruled.

24 THE WITNESS: No.

25 Q BY MS. VALENTINE: Okay. And you --

1 A No, we didn't discuss it.

2 Q And you -- and indeed, in your own testimony, you stated  
3 that, in your experience with Mr. Luna and previous campaigns,  
4 that he -- you suggested that it was his practice or, you know,  
5 his MO, if you will, that he would have a couple employees in  
6 the meetings who were union supporters, who would try to put  
7 words in the mouths of the labor consultants. That was your  
8 testimony, right?

9 A That was my testimony.

10 Q Okay. So knowing that --

11 MS. VALENTINE: I guess I can't ask the question. I don't  
12 know if that -- his testimony itself makes the question I was  
13 trying to make any more relevant.

14 JUDGE MCCARRICK: Well, ask the question. I can't --

15 MS. VALENTINE: Okay. Well, I'm actually trying --

16 JUDGE MCCARRICK: -- rule on something that's not a  
17 question.

18 MS. VALENTINE: I'm trying to ask the question that was  
19 overruled.

20 JUDGE MCCARRICK: Go ahead and --

21 MS. VALENTINE: Okay.

22 JUDGE MCCARRICK: You can ask any question you want.

23 MS. VALENTINE: Okay, all right. I'll ask again.

24 Q BY MS. VALENTINE: Is that not the practice, to exclude  
25 such persons, especially in light of your own personal

1 experience, in particular, with Mr. Luna, of including these --  
2 of -- okay.

3 JUDGE MCCARRICK: Is the question completed?

4 MS. VALENTINE: Yes.

5 JUDGE MCCARRICK: Don't answer the question.

6 MR. ADLONG: I'd object. That is irrelevant whether he  
7 was or -- like whether we wanted to exclude him. What's at  
8 issue is what happened at this meeting, not what happened  
9 afterwards, not what happened before, but what happened but  
10 what happened at this meeting.

11 JUDGE MCCARRICK: Well, it may be relevant what position  
12 the Employer took with respect to particular individuals of  
13 meetings, but what's not relevant, what is too attenuated is  
14 what the practice may be in the labor consulting or the union  
15 organizing business. I'm not going to permit that.

16 MS. VALENTINE: So I'm looking at Respondent's Exhibit 3.

17 JUDGE MCCARRICK: You're referring --

18 MS. VALENTINE: 2, sorry.

19 JUDGE MCCARRICK: 2.

20 MS. VALENTINE: 2. So this -- page 8.

21 Q BY MS. VALENTINE: So you did not emphasize that slide at  
22 any time; is that correct?

23 A That's correct. No.

24 Q Okay. That's fine. Thank you. And are you currently  
25 providing services to UNFI through the culture group or

1 otherwise?

2 MR. ADLONG: Objection, irrelevant.

3 JUDGE MCCARRICK: What was the relevant of an ongoing  
4 relationship?

5 MS. VALENTINE: Well, I think his credibility is also at  
6 issue.

7 JUDGE MCCARRICK: Well, what is --

8 MS. VALENTINE: And so, whether he has an ongoing business  
9 relationship and anticipation of future business --

10 JUDGE MCCARRICK: I'll permit that.

11 MS. VALENTINE: -- I think that would be relevant.

12 JUDGE MCCARRICK: Pecuniary interest. I'll allow it.

13 THE WITNESS: I haven't provide any services for the last  
14 maybe four months, maybe five until today, until --

15 Q BY MS. VALENTINE: Okay. Were you -- did -- were you  
16 meeting with employees in January 2015?

17 A No.

18 Q Okay. And on -- back to May 9th. Isn't it true that you  
19 were not with Juan Negrone the entire day?

20 A I wasn't with him the entire day.

21 Q Okay. So you don't know what he was doing at every moment  
22 of the day?

23 A I don't know what he was doing, you know, between 8 a.m.  
24 in the morning and 11 a.m. in the --

25 Q Okay. But you know what he was doing at every moment

1 after that?

2 A After 11, yes.

3 Q Okay. Never left your sight? Never went to the restroom?

4 Never --

5 A Maybe, you know.

6 Q Okay.

7 MS. VALENTINE: That's all the questions I have. Thank  
8 you.

9 JUDGE MCCARRICK: Union.

10 MS. LEE: Your Honor, can I just take one minute before --

11 JUDGE MCCARRICK: Yeah.

12 MS. LEE: -- I ask some questions. Is that all right?

13 JUDGE MCCARRICK: Yeah.

14 MS. LEE: Okay.

15 (Counsel confer)

16 MR. RIMBACH: Sorry. Can we step outside for one second?

17 JUDGE MCCARRICK: Yeah.

18 MR. RIMBACH: Thank you.

19 JUDGE MCCARRICK: We're off the record. Let's go off the  
20 record.

21 (Off the record at 3:58 p.m.)

22 JUDGE MCCARRICK: Go ahead.

23 MS. LEE: I don't have any further questions, Your Honor.

24 JUDGE MCCARRICK: Anything from General Counsel?

25 I've got a couple of questions, and it may prompt

1 questions by other people. I just want to get -- I'm not clear  
2 on the sequence of May 9th.

3 Sir, I think you indicated you got to the facility at  
4 about 11:00. And is that correct?

5 THE WITNESS: That's correct.

6 JUDGE MCCARRICK: And you went into a meeting?

7 THE WITNESS: Yes, an informal meeting, you know with John  
8 Henderson and Juan Negroni.

9 JUDGE MCCARRICK: Okay. And I think --

10 THE WITNESS: That's when you find out, you know, what  
11 happened and --

12 JUDGE MCCARRICK: Okay. Did you meet --

13 THE WITNESS: -- what we need to do.

14 JUDGE MCCARRICK: Did you meet in an office or --

15 THE WITNESS: No, on the training room.

16 JUDGE MCCARRICK: In the training room. And that lasted I  
17 think you said about 15 minutes?

18 THE WITNESS: Ten, 15 minutes, yes.

19 JUDGE MCCARRICK: Okay. And then where did you go from  
20 there, from the meeting with Mr. Negroni and Mr. Henderson?

21 THE WITNESS: We went to grab something to eat.

22 JUDGE MCCARRICK: Okay.

23 THE WITNESS: We went to Subway, you know, that is a five-  
24 minute drive.

25 JUDGE MCCARRICK: And that was at a restaurant?

1 THE WITNESS: Fast food place.

2 JUDGE MCCARRICK: Fast food, okay. And who'd you go with?

3 THE WITNESS: With Juan Negroni and John Henderson.

4 JUDGE MCCARRICK: And did you return to the facility then?

5 THE WITNESS: Yes.

6 JUDGE MCCARRICK: And about what time did you return to  
7 the facility after getting something to eat?

8 THE WITNESS: Around noon, right, you know, before the  
9 meeting.

10 JUDGE MCCARRICK: And then you said there was a meeting.  
11 Was this the meeting that Mr. Negroni ran?

12 THE WITNESS: Yes, the English meeting at 12:15.

13 JUDGE MCCARRICK: At 12:15. Now you weren't part of that  
14 meeting, were you?

15 THE WITNESS: No.

16 JUDGE MCCARRICK: And when Mr. Negroni went to the meeting  
17 at 12:15, where did you go?

18 THE WITNESS: I went to an office, you know, that was  
19 close by.

20 JUDGE MCCARRICK: Is this in the HR area?

21 THE WITNESS: Yes. It is the next door, you know, to the  
22 HR office.

23 JUDGE MCCARRICK: Okay. So you weren't in the office.

24 And I think you said you were translating a PowerPoint  
25 presentation?



1 THE WITNESS: Yeah, for the following week.

2 JUDGE MCCARRICK: For the following week?

3 THE WITNESS: Yes.

4 JUDGE MCCARRICK: And how long were you in there?

5 THE WITNESS: You know, through the whole presentation  
6 that they did.

7 JUDGE MCCARRICK: Well --

8 THE WITNESS: I don't remember the times.

9 JUDGE MCCARRICK: From the office where you were  
10 translating, did you then go into your own meeting at 2:15?

11 THE WITNESS: Not right away, no.

12 JUDGE MCCARRICK: So --

13 THE WITNESS: Juan Negrone came after his meeting and  
14 start helping me with the translations.

15 JUDGE MCCARRICK: Okay. And what time did Mr. Negrone  
16 come into the office where you were doing the translation?

17 THE WITNESS: Maybe, you know, between 1, 1:20. Don't  
18 have the time.

19 JUDGE MCCARRICK: And he helped you translate?

20 THE WITNESS: Uh-huh.

21 JUDGE MCCARRICK: That's a yes?

22 THE WITNESS: Yes.

23 JUDGE MCCARRICK: And did you stay in that room the entire  
24 time with Mr. Negrone until 2:15?

25 THE WITNESS: 2:15, yes.

1 JUDGE MCCARRICK: And then you went to a meeting of  
2 employees at 2:15; is that correct?

3 THE WITNESS: That's correct.

4 JUDGE MCCARRICK: And who was in that meeting with you?

5 THE WITNESS: Juan Negroni.

6 JUDGE MCCARRICK: Was in that meeting. And that meeting  
7 lasted?

8 THE WITNESS: Like an hour-and-a-half, give and take, you  
9 know.

10 JUDGE MCCARRICK: And after that meeting was completed,  
11 after about an hour-and-a-half, where did you go?

12 THE WITNESS: We went to the HR office, have a little  
13 meeting with the HR manager.

14 JUDGE MCCARRICK: And who was that?

15 THE WITNESS: I'm very good -- very bad with names.  
16 That's --

17 JUDGE MCCARRICK: It was the HR manager.

18 THE WITNESS: It was the HR manager.

19 JUDGE MCCARRICK: And how long did that meeting last?

20 THE WITNESS: We were there for about 20 minutes.

21 JUDGE MCCARRICK: And was in this person's office?

22 THE WITNESS: Yes.

23 JUDGE MCCARRICK: And after that, where did you go?

24 THE WITNESS: I went home.

25 JUDGE MCCARRICK: And you described to me that you and Mr.

1 Negroni left to the parking lot at the same time?

2 THE WITNESS: Yes, at the same time.

3 JUDGE MCCARRICK: Okay. Very good. Any additional  
4 questions that I prompted? General Counsel?

5 MS. VALENTINE: Let me give me a moment.

6 **CROSS-EXAMINATION (CONTINUED)**

7 Q BY MS. VALENTINE: What was your meeting with HR about?

8 MR. ADLONG: Objection, irrelevant.

9 JUDGE MCCARRICK: Overruled.

10 THE WITNESS: We talk about, you know, what happened on  
11 the meeting. We discuss, you know, what's going to be the  
12 schedule for next week. That's about what we talk about.

13 MS. VALENTINE: Thank you.

14 JUDGE MCCARRICK: Anything further from the union?

15 MS. LEE: No.

16 JUDGE MCCARRICK: Anything further?

17 MR. ADLONG: Nothing.

18 JUDGE MCCARRICK: All right, sir, thank you. You're free  
19 to go. Let's go off the record.

20 (Off the record at 4:10 p.m.)

21 JUDGE MCCARRICK: All right. Who will you call as your  
22 next witness?

23 MR. TOPOLSKI: Mr. Juan Negroni.

24 JUDGE MCCARRICK: Sir, if you will stand and raise your  
25 right hand.

1 Whereupon,

2 JUAN NEGRONI

3 having been duly sworn, was called as a witness herein and was  
4 examined and testified as follows:

5 JUDGE MCCARRICK: Be seated.

6 THE WITNESS: Thank you.

7 JUDGE MCCARRICK: Would you state your name for the  
8 record.

9 THE WITNESS: Juan Negroni.

10 JUDGE MCCARRICK: And spell your last name, sir.

11 THE WITNESS: N-E-G-R-O-N-I.

12 JUDGE MCCARRICK: Mr. Topolski.

13 MR. TOPOLSKI: Thank you.

14 DIRECT EXAMINATION

15 Q BY MR. TOPOLSKI: Mr. Negroni, let's cut to the chase  
16 here. During April and May of 2014, you were doing some work  
17 for UNFI West, correct?

18 A Correct.

19 Q What was the nature of that work?

20 A Basically two reasons. To give information to the  
21 employees, give them the facts, and to also coach supervisors  
22 and the management team so they wouldn't do anything illegal.  
23 So everything that they did was within the law.

24 Q Okay. And for what organization did you do that?

25 A Through Kulture.

1 Q And how long have you been doing this type of work?

2 A A long, long time.

3 JUDGE MCCARRICK: Let me back up because I want to make  
4 sure that the transcript comes out correctly. The organization  
5 that you work through is?

6 THE WITNESS: Kulture.

7 JUDGE MCCARRICK: Culture, C-U-L-T-U-R-E?

8 THE WITNESS: No, K-U-L-T-U-R-E. I don't know. 35 years,  
9 40 years.

10 Q BY MR. TOPOLSKI: Is it possible to estimate how many  
11 union organizing campaigns you've done?

12 A 76.

13 Q And how many times did you get to testify in a proceeding  
14 like this today?

15 A First time.

16 Q And we've talking about the election campaign in Moreno  
17 Valley, correct?

18 A Yes.

19 Q And that involved warehouse associates; is that right?

20 A Yes.

21 Q Now, again to cut to the chase, I want to talk about a  
22 couple of specifics incidents.

23 A Surely.

24 Q And some allegations have come up concerning your conduct  
25 on May 9, 2014; you are familiar with those, correct?

1 A Yes.

2 Q Let me ask you this, Mr. Negroni, can you walk us through  
3 your day at UNFI in Moreno Valley on May 9, 2014?

4 A Yes.

5 JUDGE MCCARRICK: I don't want to a stream of  
6 consciousness. We need to do this by question and answer.

7 Q BY MR. TOPOLSKI: What time did you get to the facility?

8 A I was there for seven hours, billing. And I left --

9 JUDGE MCCARRICK: What time did you get there?

10 THE WITNESS: 8:00-ish in the morning. Maybe a little bit  
11 before that.

12 Q BY MR. TOPOLSKI: Okay. And what was your plan for the  
13 day?

14 A Two -- we had -- I did two meetings in English and then I  
15 was a witness to a third meeting that Carlos Ortiz conducted.

16 Q What time did the first meeting begin?

17 A I think it was around 8:15 in the morning, it was  
18 scheduled. Sometimes people are late.

19 Q Okay. And what time did the second meeting begin?

20 A 2:15 was the scheduled time.

21 Q The second meeting or the third?

22 A The second meeting was at 12:15.

23 Q About how long did the 8:30 meeting last?

24 A 45 minutes, maybe longer.

25 Q Did the 12:15 meeting begin about on time?

1 A I can't what recall exactly what time, but it was  
2 somewhere around 12:15.

3 Q Between 8:30 and 12:15, did you go on what we call the  
4 floor of the warehouse area?

5 A Absolutely not.

6 Q What were you doing between the end of the 8:30 meeting  
7 and the beginning of the 12:15 meeting?

8 A Two things. I was helping Carlos do some translation, the  
9 English into the Spanish. I'm bilingual. And also we had a  
10 problem with the projector. That's why that remains so clearly  
11 in my mind, and we asked one of the maintenance men to come in  
12 and repair it.

13 Q Do you recall how long the 12:15 meeting lasted?

14 A I'm guessing 40 minutes, 45 minutes.

15 Q And do you recall what you did between the 12:15 meeting  
16 and the 2:15 meeting?

17 A Well, we prepared for the 2:15 meeting. I did not go out  
18 on the floor, it that's what you're asking me.

19 Q And you attended the 2:15 meeting, correct?

20 A Yes.

21 Q And that was in Spanish, correct?

22 A Yes.

23 Q You did not present that meeting?

24 A Absolutely not.

25 Q And there's been some testimony about -- about a comment

1 by Mr. Armando Perez.

2 A Yes.

3 Q Can you tell us what you saw on May 9?

4 A The question came up and I'm assuming --

5 MS. LEE: Objection, Your Honor, at what time, at what  
6 meeting? There needs to be further foundation laid.

7 JUDGE MCCARRICK: Sustained.

8 Q BY MR. TOPOLSKI: We're talking about the 2:15 meeting.

9 A Yes.

10 Q About Armando Perez's conduct during that meeting.

11 A It was the last meeting of the day.

12 MS. LEE: Objection, Your Honor, there hasn't been  
13 foundation that Mr. Perez was in this 2:15 meeting. I just  
14 feel like there needs to be further foundation. Starting to  
15 get into leading.

16 JUDGE MCCARRICK: Yeah, I don't think there's been any  
17 foundation yet.

18 MR. TOPOLSKI: I think we have -- the sign-in sheet is  
19 already in evidence.

20 JUDGE MCCARRICK: Sorry, what's in evidence?

21 MS. LEE: For May 9? No, it isn't.

22 JUDGE MCCARRICK: I'm sorry, what's in evidence?

23 MR. TOPOLSKI: Employer Exhibit 1 is the May 9, 2:15,  
24 sign-in sheet.

25 JUDGE MCCARRICK: Right.



1 MS. LEE: Is that in evidence?

2 MR. TOPOLSKI: It is evidence. It's Respondent Exhibit 1.

3 And Armando Perez's signature is on the document.

4 MR. RIMBACHI don't know if that was admitted.

5 MS. VALENTINE: Yeah, I don't think --

6 JUDGE MCCARRICK: Yeah, it was. 1 has been admitted, but  
7 that doesn't establish --

8 MR. TOPOLSKI: How much more foundation do we need?

9 JUDGE MCCARRICK: For this witness?

10 MR. TOPOLSKI: Yes, the questions pending is -- the  
11 question pending is: Mr. Negroni, can you tell us about Mr.  
12 Armando's conduct at this meeting?

13 JUDGE MCCARRICK: We haven't established he's present.  
14 That hasn't been established.

15 Q BY MR. TOPOLSKI: Where were you at 2:15 on May 9?

16 A I was in the training room at Moreno Valley facility.

17 Q Were you at a meeting in 2:15 in the training room on May  
18 9, 2014?

19 A Yes, I was.

20 Q And what was your role at that meeting?

21 A To serve as a witness.

22 Q For who?

23 A For Carlos Ortiz, who was making the presentation.

24 Q Okay. And you were able to observe Armando Perez's  
25 comment at that meeting, correct?

1 A Yes.

2 Q Tell us what you observed.

3 A He started to ask questions about rolling gate and prairie  
4 agency and he insisted that the objective of the company was to  
5 -- to replace full-time employees with the temporary employees.  
6 And I said to him -- I jumped in and said, "No, that's not the  
7 case. I can assure you that's not the case." And he kept on  
8 insisting and kept on insisting, and finally he got up, he got  
9 up -- you want me to demonstrate how he got up?

10 Q No.

11 A Okay. He got up, walked to the door and said to the  
12 individuals, you know, "Let's go." And nobody followed him.  
13 And then he went back -- back to his chair. I don't think he  
14 said anything after that.

15 Q What, if anything --

16 MS. LEE: Objection, Your Honor, I'm not sure what the  
17 relevance of this line of questioning is.

18 JUDGE MCCARRICK: It's already in. Too late to object.

19 Q BY MR. TOPOLSKI: About how long did the 2:15 meeting  
20 last?

21 A I know we were out of there by 3:00-ish, so it couldn't  
22 have gone beyond that.

23 Q What did you do after that meeting?

24 A I went to the hotel, back to my hotel.

25 Q Did you stop anywhere in between the time you went to the

1 hotel and the end of the meeting?

2 A I don't think so.

3 Q Do you remember who you walked out with?

4 A Carlos Ortiz.

5 Q At any time during May 9, 2014, did you walk the floor?

6 A Absolutely not.

7 Q There's been some testimony from Armando Perez -- all  
8 right. He claims you had a one-on-one conversation with him  
9 around 3:00 on May 9, 2014, in the warehouse. What do you say  
10 to that?

11 A I did not. And I can expound on that, if you want me to.

12 Q Go ahead.

13 A Well, first of all, I wouldn't have a conversation with --

14 JUDGE MCCARRICK: No, no, no.

15 THE WITNESS: That's fine.

16 JUDGE MCCARRICK: If you didn't have a conversation --

17 THE WITNESS: I did not. I did not. That's absolutely --

18 JUDGE MCCARRICK: Let me finish before you respond. Just  
19 answer the question.

20 THE WITNESS: Okay.

21 JUDGE MCCARRICK: Go ahead.

22 Q BY MR. TOPOLSKI: All right. Mr. Perez also said you  
23 asked him about the union. I think the testimony is along the  
24 lines of: How do you feel about the union? What do you say to  
25 that?

1 A Under no conditions would I ask him or anyone such a  
2 question, and I did not, of course.

3 Q Well, why in particular wouldn't you ask Mr. Perez?

4 A Because he had been a witness in the previous campaign  
5 that we had there and I had conducted, in the previous  
6 campaign, some meetings where he got up and made ridiculous  
7 comments, such as once a contract is signed the union won't  
8 reopen it, and I cited things like United Airlines, which I had  
9 worked on, so he kept making -- saying things that were totally  
10 untrue. So he's the last person in the world -- well, I would  
11 never say that to anyone, regardless of whether it was Armando  
12 Perez or anyone else, I would never say something like that. I  
13 mean that's stupidity.

14 MR. TOPOLSKI: Can I show the witness General Counsel  
15 Exhibit 2.

16 Q BY MR. TOPOLSKI: I'm going to show you what's been marked  
17 as General Counsel 2. Mr. Perez says he gave that to you on  
18 the warehouse floor and May 9, 2014, at around 3:00 p.m. What  
19 did you say to that?

20 A Absolutely not. Mr. Perez did not give me this nor did he  
21 ever give me anything.

22 Q When was the first time you saw that document?

23 A Right now.

24 Q Were you present at the facility on May 16, 2014?

25 A No, I was not.

1 Q Let me ask you this, Mr. Negroni, before we get off of May  
2 9: You stated you were there for seven hours. How do you know  
3 that?

4 A The billing. I billed them by the hours and I was there  
5 for seven hours.

6 Q And you got there about what time?

7 A 8:00-ish, a little bit before. I can't tell you the  
8 precise time.

9 Q Now, there's been some testimony about your conduct on May  
10 22nd. You're familiar with the allegations?

11 A Yes.

12 Q Okay. Did you walk the floor on May 22, 2014?

13 A Yes, I did.

14 Q How do you know that?

15 A Because I recall going out there with supervisors.

16 Q During the time you were out on May 22, 2014, did you  
17 ever talk with any associates by yourself?

18 A No.

19 Q Okay. Now, Mr. Lino Contreras alleged, all right, that  
20 between 5:00 or 6:00 p.m., you approached him on the warehouse  
21 floor and had about a three- or four-minute conversation with  
22 him in Spanish; what do you say to that?

23 A Absolutely not.

24 Q And what makes you so sure about that all?

25 A Well, first of all, same reason for Armando Perez; I

1 remember saying good morning, as I do to all the employees.  
2 We've become -- there's great people working there. And I said  
3 to him good morning. He didn't answer me. Just good morning.  
4 So I don't recall ever having a conversation about -- with Lino  
5 whether it was about the union or about anything. Well, I did  
6 not have a conversation with him about the union. I don't ever  
7 recall having a conversation with him about anything else.

8 Q He says this happened in the stacks around the repack and  
9 replenishing area.

10 A No.

11 Q Mr. Contreras said that you asked him about the union.

12 A Absolutely not. I've been doing this for --

13 JUDGE MCCARRICK: Sir, there is no question pending.

14 MS. LEE: Objection.

15 THE WITNESS: All right.

16 Q BY MR. TOPOLSKI: Did you have something else to say about  
17 that?

18 JUDGE MCCARRICK: No.

19 THE WITNESS: Okay.

20 JUDGE MCCARRICK: There is no question pending.

21 Q BY MR. TOPOLSKI: Mr. Contreras alleged that you asked  
22 about the union and Mr. Contreras said it was fine, why are you  
23 asking. Did that happen?

24 A No.

25 Q Mr. Contreras also said that he said to you -- that you

1 said to him that it was your understanding that the union is  
2 making a lot of problems.

3 A No.

4 Q Then Mr. Contreras alleged that he said to you that the  
5 union was not making a lot of problems, it was the company that  
6 was lying and threatening people.

7 A No.

8 Q Mr. Contreras also said that on May 22nd, he handed you  
9 this piece of paper.

10 JUDGE MCCARRICK: Referring to General Counsel 2.

11 THE WITNESS: Absolutely not.

12 Q BY MR. TOPOLSKI: And he said that you said that the piece  
13 of paper is useless because the company has its own policies.

14 A No way.

15 Q Now, Mr. Perez said -- Mr. Perez said that you showed him  
16 this paper on May 9th. He claimed that your response was --  
17 let me get it right. He claims that you said to him on May 9  
18 when he showed -- when he showed you General Counsel Exhibit 2,  
19 that you said this document does not work here, my brother.

20 A Brother? My gosh, it's not a term I would use, no.  
21 Absolutely not.

22 MR. TOPOLSKI: I have no further questions.

23 JUDGE MCCARRICK: Cross.

24 MS. VALENTINE: Yes, if I could have just a moment.

25 (Counsel confer)

**CROSS-EXAMINATION**

1

2 Q BY MS. VALENTINE: You said that you billed seven hours on  
3 May 9th.

4 A Yes.

5 Q Did you happen to bring a copy of the billing statement  
6 with you?

7 A No, no, I don't have that with me.

8 Q How are you so sure of that?

9 A That I don't have it with me?

10 Q No, that you billed those hours.

11 A Because I looked at my schedule for the last year that  
12 I've been going to the company, and I keep specific records of  
13 everything I do.

14 Q Thank you. But you didn't bring a copy. You looked at  
15 it, but you didn't bring a copy?

16 A Nobody asked me to bring a copy.

17 Q Okay, that's fine. Okay. And so did that seven hours  
18 include the lunch break or did you take a lunch break that day?

19 A You know, sometimes we don't take lunch breaks. I don't  
20 remember. All I know is the number of hours I was there and  
21 what happened, I don't remember whether I ate or not.

22 Q Okay. So if you took a lunch break, would you have billed  
23 for it?

24 A Typically not.

25 Q Okay. So if you got there around 8:00-ish, then you would



1 have -- that seven hours would have added up to --

2 JUDGE MCCARRICK: 3:00.

3 THE WITNESS: That's --

4 JUDGE MCCARRICK: If he didn't take a lunch break.

5 Q BY MS. VALENTINE: Okay. And you said the -- so you did  
6 not walk the floor on May 9th, but you did on the 22nd?

7 A Yes.

8 Q And how are you -- is that in your calendar or your  
9 billing records?

10 A I'm not sure I understand the question.

11 Q I'm just asking how you're so certain of that sitting here  
12 right now.

13 A Of what? The 9th or the 22nd?

14 Q Both.

15 A Well, the 9th is because of the meetings. I held the  
16 meetings, as I explained previously. There were three meetings  
17 held. I did the first and second one, and in between the  
18 projector broke. The third one started at 2:15-ish and we were  
19 gone by 3:00-ish.

20 Q So you didn't have time to do anything other than the  
21 meetings that day?

22 A I didn't do anything else.

23 Q Okay.

24 A I definitely was not on the floor.

25 Q Thank you, that's fine. Thank you. So you were involved

1 with the organizing campaign back in 2012?

2 A Yes, I was.

3 Q How long have you worked -- provided services for UNFI?

4 MR. TOPOLSKI: Objection, relevancy.

5 MS. VALENTINE: I think that goes to his credibility.

6 JUDGE MCCARRICK: I'll allow the answer to stand that he's  
7 worked since 2012.

8 Q BY MS. VALENTINE: Okay. And following these -- this work  
9 in April and May --

10 MS. VALENTINE: I'm sorry, Your Honor.

11 JUDGE MCCARRICK: It may even be in the decision. I don't  
12 know if there's any note of that in the judge --

13 MR. TOPOLSKI: Prior decision was not --

14 JUDGE MCCARRICK: Okay, okay. Go ahead.

15 Q BY MS. VALENTINE: What about after April and May 2014,  
16 have you continued to provide services for the --

17 A Yes.

18 Q Are you currently providing services for the employer?

19 A I'm here today.

20 Q For UNFI?

21 A I'm here today.

22 Q Are you currently, regularly sending billings or --

23 A Yes, we get called every so often.

24 Q Do you anticipate that continuing into the future?

25 A How would I know that? I don't know, maybe they --

1 Q If there's another petition filed?

2 JUDGE MCCARRICK: That calls for speculation.

3 MS. VALENTINE: Okay, okay. Well -- nothing further.

4 JUDGE MCCARRICK: Union?

5 MS. LEE: I do have a couple questions.

6 JUDGE MCCARRICK: Go ahead.

7 **CROSS-EXAMINATION**

8 Q BY MS. LEE: Good afternoon. My name is Sharon Lee. I'm  
9 counsel for the Union. I have a couple questions.

10 A Surely.

11 Q You said you've been a labor consultant for the past 35 or  
12 40 years?

13 A Did I say that?

14 Q I'm sorry.

15 JUDGE MCCARRICK: I believe you did.

16 MS. LEE: I don't know.

17 THE WITNESS: I've been working in that arena, yes, you  
18 want me to explain more?

19 JUDGE MCCARRICK: No.

20 Q BY MS. LEE: No, that was just yes-or-no question.

21 A Surely.

22 Q And you had been previously been shown this document,  
23 which is General Counsel Exhibit 2. And during the 35 or 40  
24 years, you've never seen this document?

25 A I'm sorry, I don't mean to be --

1 JUDGE MCCARRICK: Sir, it's a very simple question.

2 THE WITNESS: That particular --

3 Q BY MR. TOPOLSKI: Go ahead and look at it. You testified  
4 earlier that this is --

5 A Yes, yes,

6 Q -- the first time you've seen this document; is that  
7 right?

8 A Yes. I've seen information related to this, but not  
9 necessarily that document.

10 Q Okay. So you've never seen this document, not even at  
11 the facility, correct?

12 A I don't think so.

13 Q You haven't seen a flyer like this in Spanish at the  
14 facility, have you?

15 A No.

16 Q Do you know who produced this document?

17 A No.

18 Q And you stated that you were present at a presentation, I  
19 believe, on May 9 at 2:15 p.m., correct?

20 A Yes.

21 Q And that presentation was being done by Mr. Ortiz, right?

22 A Yes.

23 Q And were you there as a witness, correct?

24 A Yes.

25 Q And were you there during the entire time of the

1 presentation?

2 A Yes.

3 Q And how was the presentation done by Mr. Ortiz? What did  
4 he do during the presentation?

5 A I'm not sure of the question.

6 Q How did he present?

7 A You start to seminar, as we do with all of them, saying  
8 good morning to the employees, tell them what we're going be  
9 discussing on at that particular time. We have a presentation,  
10 typically a PowerPoint presentation. We read what's on there.  
11 We don't deviate from it. That's the process, if that's what  
12 you mean. That's what usually happens. Whether I do it or Mr.  
13 Ortiz does it or anybody else does it.

14 Q So Mr. Ortiz read word for word every single line of that  
15 presentation; is that right?

16 A Yes.

17 Q Did he make any other comments during that presentation?

18 A Well, I don't remember any of the questions, other than  
19 Mr. Perez getting up and making his remarks.

20 Q And you stated the presentation took place about 45  
21 minutes; is that right?

22 A Yes, approximately.

23 MS. LEE: No further questions.

24 MR. TOPOLSKI: No further questions.

25 JUDGE MCCARRICK: Thank you, sir. You are free to step

1 down.

2 THE WITNESS: Thank you.

3 JUDGE MCCARRICK: We still have a few minutes. I'm not  
4 sure how long the next --

5 MR. TOPOLSKI: I think very brief.

6 JUDGE MCCARRICK: Okay. Well, let's try to fit one more  
7 in. English or Spanish?

8 MR. TOPOLSKI: This is English.

9 JUDGE MCCARRICK: Let's go off the record.

10 (Off the record at 4:36 p.m.)

11 JUDGE MCCARRICK: If you will stand and rise your right  
12 hand.

13 Whereupon,

14 **LISA PEREZ**

15 having been first duly sworn, was called as a witness herein  
16 and was examined and testified as follows:

17 JUDGE MCCARRICK: Please be seated. State your name for  
18 the record.

19 THE WITNESS: Lisa Perez.

20 JUDGE MCCARRICK: Mr. Topolski.

21 MR. TOPOLSKI: Thank you, Your Honor.

22 **DIRECT EXAMINATION**

23 Q BY MR. TOPOLSKI: Ms. Perez, we've been trying to get to  
24 the quick here and we're trying to get out by 5:00, so I'm  
25 going to get directly to the point. You did work for UNFI in

1 April and May of 2014, correct?

2 A Yes.

3 Q And you did that through what entity?

4 A Through Kulture is one that contacted me to do the job at  
5 UNFI.

6 Q Okay. And during April and May of 2014, what were you  
7 contracted to do?

8 A I was contracted to come in to do labor education, labor  
9 relations. Mostly my job was interacting with employees.

10 Q And can you estimate -- and this was a union campaign,  
11 right?

12 A Correct.

13 Q Can you estimate about how many union campaigns you've  
14 worked on?

15 A Between doing it now and when I was a union organizer,  
16 roughly around 78.

17 Q And how many times have you found yourself in the position  
18 of testifying in an NLRB hearing prior to today?

19 A None. This is my first time.

20 Q And you are bilingual, correct?

21 A Yes.

22 Q And the only allegation I think that concerns you directly  
23 in this case has to do with a meeting that took place on May  
24 16, 2014. Did you attend an employee information meeting on  
25 that date?

1 A I was a witness.

2 Q And do you remember what time that meeting took place?

3 A There were several meetings. I can't tell you what time.

4 There was a couple in the morning, one in the afternoon. We  
5 had a lot of meetings throughout the -- so it's difficult for  
6 me to pinpoint exactly.

7 Q Bear with me just a second. Who presented that meeting?

8 A Carlos.

9 Q Was that a meeting in English or Spanish?

10 A Spanish.

11 Q The PowerPoint slides, did you use them?

12 A In Spanish. For the Spanish it was all Spanish; English  
13 was all English.

14 (Counsel confer)

15 Q BY MR. TOPOLSKI: I'm going to show you what's marked as  
16 Respondent's Exhibit 3. Can you took take a look at that for  
17 me?

18 A Okay.

19 Q Were you at this meeting on May 6?

20 A This is the one I was in, yes.

21 Q At 2:15?

22 A Yes. It was just a small one. The smallest one of the  
23 day.

24 Q And you're there to witness Mr. Ortiz's presentation,  
25 correct?



1 A Correct.

2 Q Can you tell us exactly how Mr. Ortiz presented at that  
3 particular meeting?

4 MS. VALENTINE: Objection, I think she testified that  
5 previously -- I know she's been directed. She's been shown a  
6 copy the sign-in sheet, but these various meetings and she  
7 couldn't tell you about one versus the other. I don't know.  
8 It seems like she --

9 THE WITNESS: That was the smallest meeting.

10 JUDGE MCCARRICK: Hold on, ma'am. There is no question  
11 pending. What was the objection?

12 MS. VALENTINE: I guess, foundation.

13 JUDGE MCCARRICK: Yeah. You indicated you weren't sure  
14 which meetings, what time the meetings were you attended. By  
15 looking at Respondent's Exhibit 3, did that somehow refresh  
16 your recollection as to what time the meeting was?

17 THE WITNESS: Yes, it has a date and time on it.

18 JUDGE MCCARRICK: How do you know that that was the  
19 meeting you attended?

20 THE WITNESS: Because of the people that were in it.  
21 Because a list of the people are on it too.

22 JUDGE MCCARRICK: All right.

23 Q BY MR. TOPOLSKI: Now, how exactly did Mr. Ortiz present  
24 that meeting?

25 A Like he always does. Following the slide. It's practice

1 for us to read right from the script. We have a script for all  
2 the meetings, whenever we present, whatever topic it is, so  
3 that we can get the same information out to everybody the same  
4 way.

5 Q Take a look at the attendees at that particular meeting.  
6 Was it important in particular to do that at this particular  
7 meeting?

8 A Well, I think it's important to do it at all the meetings,  
9 but yeah in this one in particular, yes.

10 Q Why is that?

11 A We knew that at least two of these people were union  
12 supporters, because they had pretty much said so, and they had  
13 already testified on behalf of the union prior. And there was  
14 one person that had a lot of questions and was feeling very  
15 pulled, conflicted because he was getting a lot of pressure.

16 Q At any time during that meeting did Mr. Ortiz tell the  
17 employees that they would lose wages if the union got in?

18 A No.

19 MR. TOPOLSKI: That's all I have, Your Honor.

20 JUDGE MCCARRICK: Cross?

21 MS. VALENTINE: Just a moment.

22 **CROSS-EXAMINATION**

23 Q BY MS. VALENTINE: You referenced a script. What is -- do  
24 you have a copy of the script with you?

25 A The slide presentation is the script.

1 Q Okay. There's no separate script?

2 A Oh, no, the slide presentation itself is the script.

3 Q But you referred to slides and you also referred to a  
4 script. Why did you --

5 A The slide presentation is the script.

6 Q Okay. You used the words separately, so that was --

7 A I guess it's another word for saying slide. We follow --  
8 our script is the presentation so that we can make sure that we  
9 give the same information to everybody, because we don't have  
10 meetings with everybody at the same time.

11 Q Got you, thank you. And you said that -- you testified  
12 that one person had a lot of questions. Who was that?

13 A Not questions so much. He was conflicted because --

14 Q Hold on, who?

15 A -- he was feeling a lot of pressure.

16 Q Who are you talking about?

17 A I'm talking about Mario.

18 Q Mario?

19 A Yeah.

20 Q I'm sorry. You said he was conflicted. How do you know  
21 he was conflicted?

22 A Because he talked to me about it and he asked me questions  
23 specifically.

24 Q This is at the meeting?

25 A No, no, no.

1 Q Outside the meeting?

2 A No, no, outside the meeting. Prior to that he had asked  
3 me as well. And he's one of the people on the floor that had  
4 commented he's feeling a lot of pressure from Lino and from  
5 Juan.

6 Q Okay. And so you say he had a lot of questions. Were  
7 those questions during the meeting or were they outside of the  
8 meeting?

9 A No, no, he stayed very quiet during the meeting.

10 Q And so were there any interruptions to this meeting in  
11 particular?

12 A The only interruptions really were Lino. He kept  
13 insisting on something, but wasn't letting us get through the  
14 presentation.

15 Q What was he insisting on?

16 A He was insisting that with the union they were going to  
17 get wage increases and they were going to get a pension.

18 Q Okay.

19 A What we kept going back to was let us finish. We'll  
20 address that. It's all negotiations.

21 Q So how did you address that then later?

22 A When we did the presentation. We said all of this is  
23 subject to negotiations.

24 Q So did you -- how did you let him know that that was the  
25 answer to his questions?

1 A Well, when Carlos got to the part with about you can get  
2 the same, you can get more or you can get less, it depends on  
3 negotiations.

4 Q And do you know which script you were using?

5 A It was the slide show. It was that presentation on that  
6 day, that week, actually, because we used that same  
7 presentation all week.

8 Q Do you know at what point that that slide came up in the  
9 script?

10 A I can't tell you what number it was because I think there  
11 was 40-some slides. Towards end, between the middle and the  
12 end.

13 Q So you were involved with the campaign back in 2012?

14 A Yes.

15 Q Are you currently providing services for UNFI?

16 A I got here yesterday, but today I did the first  
17 walkthrough in the warehouse, so yes, yes, I am.

18 Q And so you said that part to your duties are interacting  
19 with employees; is that right?

20 A Uh-huh.

21 JUDGE MCCARRICK: Yes?

22 THE WITNESS: Yes, sorry.

23 Q BY MS. VALENTINE: And labor education, is that -- how do  
24 you do the labor education?

25 A I impart the information I have.

1 Q How did you impart it?

2 A One-on-on, mostly. One-on-one, mostly. I don't do a lot  
3 of the presentations, but sometimes I do. In this particular  
4 case I didn't do any of the presentations that I can remember.  
5 But I'm really big on telling people to follow up on the  
6 information. I'm really big on telling them to follow up with  
7 the union. I'm --

8 Q That's good, thank you.

9 A I'm especially big on telling them to get the NLRA guide.

10 MS. VALENTINE: Okay. That's all my questions. Thank  
11 you.

12 JUDGE MCCARRICK: Union have any questions?

13 MS. LEE: I do have a few questions.

14 JUDGE MCCARRICK: All right.

15 **CROSS-EXAMINATION**

16 Q BY MS. LEE: Good afternoon. My name is Sharon Lee. I'm  
17 the attorney for the union. I have a few questions for you.  
18 We were discussion the May 6 meeting at 2:15 p.m. And Lino  
19 asked you some questions, asked Mr. Ortiz some questions at  
20 that meeting; isn't that true?

21 A Yes. Well, I wouldn't say they were really questions.  
22 They were just statement he was saying.

23 Q Did he ask whether if the union wins the company could  
24 reduce your salary?

25 A When he asked that question, like I said it really wasn't

1 a question. It was more of a statement saying: Are you saying  
2 that if the union wins, the company won't negotiation and we'll  
3 get less? That was -- if the meeting lasted a long time, it  
4 was more because of that. Okay? Carlos, kept saying, wait,  
5 we're getting to that part. We're getting to that part. At  
6 one point I did tell him, you know, let us finish; it's all  
7 subject to negotiations. You could get more or you could get  
8 the same.

9 JUDGE MCCARRICK: Ma'am, I'm concerned with Mr. Contreras.  
10 What Mr. Contreras said about this issue about if you the union  
11 won could the company reduce wages. What did he say? What  
12 were the words Mr. Contreras used?

13 THE WITNESS: He used -- he had two focus points. One was  
14 when the union --

15 JUDGE MCCARRICK: Ma'am, listen to my question. I'm not  
16 interested in his focus points. I'm interested in what he  
17 said. To the best of your recollection, what were the words he  
18 used?

19 THE WITNESS: With the union we would get more wages and a  
20 union pension.

21 JUDGE MCCARRICK: Okay.

22 THE WITNESS: Teamster pension.

23 JUDGE MCCARRICK: Was there some response to that by Mr.  
24 Ortiz?

25 THE WITNESS: Mr. Ortiz said that's possible, but it's

1 subject to negotiation.

2 We can't tell you that that's exactly what would happen  
3 because you can't predict what will happen. And that's when he  
4 would turn around and say, so you're telling me we would get  
5 less if we vote for the union?

6 JUDGE MCCARRICK: What did Mr. Ortiz say?

7 THE WITNESS: He said no, that's not what I'm telling you.  
8 I'm telling you that it's subject to negotiations. You could  
9 get more, you could get less, or you can end up with the same.

10 JUDGE MCCARRICK: Okay. Go ahead.

11 Q BY MS. LEE: Didn't Mr. Ortiz say something like if the  
12 union wins the company could reduce your salary?

13 A It could be subject to negotiation, yeah.

14 Q But did he say --

15 A It's a possibility.

16 Q My question is: Didn't in fact Mr. Ortiz say if the union  
17 wins the company can reduce your salary?

18 A It would be subject to negotiations. It could be a result  
19 of negotiations. He didn't say it in that fashion. He said it  
20 could be a result of negotiations.

21 Q Was that his exact words?

22 A I can't tell you what his exact words were because I can't  
23 remember specifically. That was almost a year ago.

24 Q At one point in this discourse between Mr. Ortiz and Mr.  
25 Contreras, didn't Mr. Ortiz also say, "Hey, Lino, who pays your



1 salary?"

2 A I don't recall that.

3 Q Did he say, you know, "The company pays your salary,  
4 right? So the company has the right to reduce your salary."  
5 Something along those lines; do you recall that?

6 A I don't recall that, no.

7 Q And you said that as part of your job you do one-on-one  
8 meetings; is that right?

9 A I do one-on-ones mostly, yes.

10 Q And the other labor consultants do one-on-one meetings  
11 too, right?

12 A Pretty much, yeah.

13 Q And they do one-on-one meetings with employees while they  
14 are working, right?

15 A Pretty much, yeah.

16 Q On the shop floor?

17 A Uh-huh.

18 JUDGE MCCARRICK: Yes?

19 THE WITNESS: Yes, sir. Sorry.

20 Q BY MS. LEE: And you also testified that you encourage  
21 employees to go get an NLRA guide or read the NLRA guide,  
22 right?

23 A We actually -- the company actually provided that. I  
24 encourage them to go to union meetings. I encourage them to  
25 get as much information from as many people as possible.

1 Q I want to show you General Counsel Exhibit 2. Have you  
2 ever seen this document before?

3 A It looks familiar. I can't tell you exactly when I've  
4 seen it but, yeah, it looks familiar.

5 Q Okay. Do you know if you saw it at the Moreno Valley  
6 site?

7 A This might have been one of the postings in the glass  
8 cases.

9 Q In what glass cases are there?

10 A There's some glass cases between the lunch room and the  
11 actual warehouse where the time clocks are. There's some by  
12 the time clocks. I think there's some over by the  
13 transportation department as well.

14 Q Okay. And these glass cases are controlled by the  
15 employer; is that right?

16 A Yeah, HR.

17 Q So HR would have put up something like that?

18 A Yeah.

19 Q Have you ever seen those around the work room? I'm sorry.  
20 Have you ever seen those flyers in the lunch room?

21 A And in the locker room. The locker room is between the  
22 lunch room and getting into the warehouse area.

23 Q Do you know who would have placed these there?

24 A No, I don't know.

25 Q Okay.

1 JUDGE MCCARRICK: I'm sorry, the locker room is where  
2 employees get dressed for work?

3 THE WITNESS: They're pretty much all dressed but like the  
4 people that work in the freezer and the other people, everybody  
5 has safety vests. That's where they keep it, in the locker  
6 room. And work boots, gloves, knives, things like that that  
7 they would use for work they keep in their lockers.

8 JUDGE MCCARRICK: Do the individual employees have their  
9 own lockers?

10 THE WITNESS: From what I understand, yeah.

11 JUDGE MCCARRICK: As far as you know?

12 THE WITNESS: Yeah.

13 Q BY MS. LEE: Do you know if Mr. Negroni ever had a one-on-  
14 one with Armando?

15 A I don't think he did, but I don't know for a fact.

16 Q Or what about Lino?

17 A Again, I don't know for a fact, but I don't think he did.

18 Q So he never discussed that with you?

19 A No.

20 Q But you're aware that --

21 A Well, the only thing they said is, you know, I said hi to  
22 somebody today, they did not respond, whatever. Dirty look.

23 MS. LEE: I don't have anything further.

24 JUDGE MCCARRICK: Any redirect?

25 MR. TOPOLSKI: Just a couple.

1                                    **REDIRECT EXAMINATION**

2     Q     BY MR. TOPOLSKI: Let me show you what's been marked as  
3     Respondent's Exhibit 6, Ms. Perez, and ask if you can identify  
4     that for me.

5     A     Yes.

6     Q     What is that?

7     A     This is the presentation that was that week, the week of  
8     the -- well, the 16th meeting, that whole week.

9     Q     Is that the dec that Mr. Ortiz used on May 16 at 2:15?

10    A     Yes.

11    Q     Did he read that verbatim?

12    A     Yes.

13    Q     Is this the script you were talking about?

14    A     Yes, this is what I referred to as the script.

15    Q     Did anybody from UNFI at the meeting use anything other  
16    than that to present?

17    A     No.

18    Q     With respect to slide number 2, which is the first line,  
19    the upper right-hand corner of page 1 of Respondents Exhibit 6,  
20    did Mr. Ortiz read that verbatim?

21    A     Yes.

22    Q     All right. Let me refer you to page 2 of the exhibit,  
23    bottom right-hand corner.

24    A     Yes.

25    Q     Did he read that verbatim?

1 A Right-hand corner?

2 Q Yes.

3 A Yes.

4 Q What does the top line, not the heading, what does the  
5 first line say?

6 A (Spanish spoken) Will misinformation, basically, or  
7 incorrect information.

8 Q I'm talking about the line under that. What does that  
9 say?

10 A (Spanish spoken) Nobody can say what the salary is or  
11 anything else if the union might win.

12 Q And what does the last line say?

13 JUDGE MCCARRICK: Hold on.

14 MS. VALENTINE: I object. Well, maybe we shouldn't have  
15 let the translator go. I'm objecting to her translating and  
16 her reading of this.

17 MR. TOPOLSKI: I'll withdraw.

18 JUDGE MCCARRICK: All right. I'm going to strike the  
19 responses.

20 MR. TOPOLSKI: No problem.

21 Q BY MR. TOPOLSKI: I want to refer you to one more slide.  
22 Please turn to page 12 of this presentation. Look at the slide  
23 on the bottom right-hand corner.

24 A Yes.

25 Q Can you tell me about that slide?

1 A This is a slide where -- it's one slide, actually three  
2 slides when they show it because it's animated. The same, more  
3 or less.

4 Q What does that refer to?

5 A You can get more, you can get less or you can get the  
6 same, subject to negotiations.

7 MR. TOPOLSKI: No further questions, Your Honor.

8 JUDGE MCCARRICK: Anything further?

9 MS. LEE: I have one additional question, unless General  
10 Counsel wants to go first.

11 MS. VALENTINE: I don't have anything.

12 JUDGE MCCARRICK: Union?

13 **RECROSS-EXAMINATION**

14 Q BY MS. LEE: Besides just reading all this on the slides  
15 verbatim, were there any slides in which Mr. Ortiz made any  
16 comments, additional comments?

17 A Not that I recall. I know that --

18 MS. LEE: Thank you.

19 THE WITNESS: Okay.

20 JUDGE MCCARRICK: Okay. Anything further?

21 MR. TOPOLSKI: No.

22 JUDGE MCCARRICK: General Counsel?

23 MS. VALENTINE: No, Your Honor.

24 JUDGE MCCARRICK: All right. Thank you, ma'am, you are  
25 free to go. 5:00. All right. We'll back on the record

1 tomorrow morning at 9:00. Let's go off the record.

2 **(Whereupon, the hearing in the above-entitled matter was**

3 **recessed at 5:00 p.m. until Wednesday, April 15, 2015 at 9:00**

4 **a.m.)**

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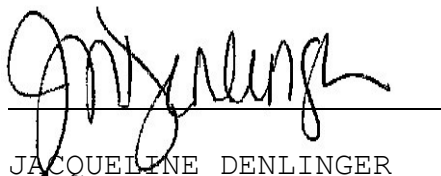
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C E R T I F I C A T I O N

1  
2 This is to certify that the attached proceedings before the  
3 National Labor Relations Board (NLRB), Region 21, Case Number  
4 21-CA-129446, UNF West Inc., and Teamsters, Chauffeurs,  
5 Warehousemen, Industrial and Allied Workers of America Local  
6 166, International Brotherhood of Teamsters at 12631 Memorial  
7 Way, Moreno Valley, California 92553, on Tuesday, April 14,  
8 2015, at 9:33 a.m. was held according to the record, and that  
9 this is the original, complete, and true and accurate  
10 transcript that has been compared to the reporting or  
11 recording, accomplished at the hearing, that the exhibit files  
12 have been checked for completeness and no exhibits received in  
13 evidence or in the rejected exhibit files are missing.

14  
15  
16   
17 JACQUELINE DENLINGER

18 Official Reporter  
19  
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OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 21

In the Matter of:

UNF West Inc.,

Case No. 21-CA-129446

and

Teamsters, Chauffeurs,  
Warehousemen, Industrial and  
Allied Workers of America,  
Local 166, International  
Brotherhood of Teamsters

---

Place: Moreno Valley, California

Dates: April 15, 2015

Pages: 184 through 216

Volume: 2

OFFICIAL REPORTERS

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E-Reporting and E-Transcription  
845 North 3rd Avenue  
Phoenix, AZ 85003  
(602) 263-0885

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21

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In the Matter of:

UNF WEST INC.,

and

TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN, INDUSTRIAL AND  
ALLIED WORKERS OF AMERICA,  
LOCAL 166, INTERNATIONAL  
BROTHERS OF TEAMSTERS

---

Case No. 21-CA-129446

The above-entitled matter came on for hearing, pursuant to notice, before **JOHN J. MCCARRICK**, Administrative Law Judge, at 12631 Memorial Way, Moreno Valley, California 92553, on **Wednesday, April 15, 2015, at 9:06 a.m.**

**A P P E A R A N C E S**

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Ana Bravo	189	190/197	202	203	
Andy Ivey	205				

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
----------------	-------------------	--------------------

Respondent:

R-9	205	
R-10	205	

1                                    P R O C E E D I N G S

2            JUDGE MCCARRICK: All right. Ma'am, if you'll raise your  
3 right hand.

4            THE INTERPRETER: Does she need me?

5            JUDGE MCCARRICK: No.

6            THE INTERPRETER: No?

7            JUDGE MCCARRICK: No.

8            THE INTERPRETER: Yeah?

9            JUDGE MCCARRICK: You're still sworn. But if the --

10           MS. VALENTINE: If she needs translation --

11           JUDGE MCCARRICK: You're still sworn.

12    Whereupon,

13                                    ANA BRAVO

14    having been duly sworn, was called as a witness herein and was  
15    examined and testified, by and through an interpreter as  
16    follows:

17           JUDGE MCCARRICK: Please be seated. Ma'am, would you  
18    state your name for the record?

19           THE WITNESS: Ana Bravo.

20           JUDGE MCCARRICK: B-R-A-V-O?

21           THE WITNESS: Yes.

22           JUDGE MCCARRICK: Whose witness?

23           MR. ADLONG: She's my witness.

24           JUDGE MCCARRICK: Okay.

25           Go ahead Mr. Adlong.

### DIRECT EXAMINATION

1

2 Q BY MR. ADLONG: Ms. Bravo, you work at UNFI, correct?

3 A Yes.

4 Q What position do you work?

5 A Picker selector.

6 Q Where in the warehouse do you work? What's the name of  
7 your work area?

8      A      Repack.

9 Q Do you work with the back stockers every day?

10 A Yes.

11 Q What is your involvement with them?

12 A They're the ones that bring us the products all day so we  
13 can do the orders.

14 Q How would you describe your work area?

15     A     It's an open area where I can move around everywhere so I  
16     can fill out the orders.

17 Q Does that mean that you can see throughout the work area,  
18 throughout the room?

19 A Yes.

20 Q Do you know Lino Contreras?

21 A Yes.

22 Q Were you working on Thursday, May 22nd 2014?

23 A Yes.

24 Q And while you're working --

25 THE INTERPRETER: May the interpreter ask for a

1 clarification? You said 22nd?

2 MR. ADLONG: 22nd.

3 THE INTERPRETER: Interpreter made a mistake. May the  
4 interpreter correct?

5 JUDGE MCCARRICK: Go ahead.

6 THE WITNESS: Yes.

7 Q BY MR. ADLONG: And how often throughout your day could  
8 you see Lino Contreras working?

9 A At that time all day.

10 Q Now on May -- on Thursday, May 22 2014, did you ever see  
11 Lino Contreras and Juan Negroni having a one-on-one  
12 conversation? Juan Negroni.

13 A No, I didn't see them.

14 MR. ADLONG: No further questions, Your Honor.

15 JUDGE MCCARRICK: Cross. Who has cross on this witness?

16 MR. RIMBACH: I do, Your Honor. Just a moment, please?

17 JUDGE MCCARRICK: Yes. Go ahead.

18 **CROSS-EXAMINATION**

19 Q BY MR. RIMBACH: All right. Good morning, Ms. Bravo. I'm  
20 Thomas Rimbach, counsel for the General Counsel at the National  
21 Labor Relations Board.

22 A Good morning.

23 Q On May 22nd 2014 what time did you start your shift that  
24 day?

25 A Eleven -- 11:30 in the morning.



1 Q What time did you end your shift?

2 A My normal shift ends at 8 p.m. at night, but I don't  
3 remember what time we finished that day.

4 Q So isn't it true that it could have ended earlier?

5 A I don't think so.

6 Q But you don't know.

7 A No.

8 Q Do you remember taking any breaks that day?

9 A Yes.

10 Q Where do you take those breaks?

11 A I take my second break right there inside the warehouse.

12 Q So all the employees take breaks at the same time?

13 A Yes.

14 Q Do all the employees go the same places during their  
15 breaks?

16 A In our department most of us are women, and we all take it  
17 together.

18 JUDGE MCCARRICK: Where in the warehouse do you take your  
19 break?

20 THE WITNESS: On the department of repack.

21 JUDGE MCCARRICK: Is there a specific location?

22 THE WITNESS: Yes. There is a computer and there is some  
23 space where we can sit right there.

24 JUDGE MCCARRICK: Okay.

25 Q BY MR. RIMBACH: Do you take a meal break?

1 A Yes. At 3:30.

2 Q Did you go to the restroom that day?

3 A Yes.

4 Q And that was by yourself, correct?

5 A Yes.

6 Q So you're not able to see all of your coworkers all the  
7 time that day? You didn't --

8 A Most of the time, yes.

9 Q And how many of your coworkers are on your shift in the  
10 repack department?

11 A How many what? I'm sorry.

12 Q How many other employees were working in the repack  
13 department during your shift on May 22nd?

14 A How many work?

15 Q How many workers were there in your department that day  
16 during your shift?

17 A We are 13 selectors or peekers. At that time there were  
18 two or three box (sic) stockers and two food stockers.

19 MS. LEE: I'm sorry. What did she say? Two --

20 JUDGE MCCARRICK: Food stockers.

21 MS. LEE: Food stockers.

22 Q BY MR. RIMBACH: In which aisle were you working in on May  
23 22nd?

24 A I work in aisle number 1 which is carousel.

25 Q Did you remain in aisle 1 the entire -- during your entire

1 shift?

2 A Most of time yes. But if I don't have work, I have to  
3 move around to look for work in other aisles.

4 Q So you were searching aisles that day?

5 A Yes. I do it most of the time -- or most all the time.

6 Q Who were the other box stackers [sic] during your shift  
7 that day?

8 A Armando Perez and Andres Osorio.

9 JUDGE MCCARRICK: Where do you take your lunch break?

10 THE WITNESS: At the break room.

11 JUDGE MCCARRICK: Do you take your breaks in the break  
12 room too?

13 THE WITNESS: No.

14 Q BY MR. RIMBACH: So didn't you say Lino Contreras was also  
15 working that day?

16 A Oh, yes.

17 Q What aisle was he working in that day?

18 A He doesn't have a specific aisle to work. I'm saying  
19 they, the box stockers.

20 Q Was Lino Contreras working in aisle 1 that day?

21 A He cannot be working in aisle 1. He has to be in all of  
22 the aisles.

23 Q If you're working in aisle 1, can you see what's going on  
24 in all of the other aisles in the repack department?

25 A Yes. Because I'm at a place where people have to be

1 passing by all day to take the products.

2 Q That's not what I asked. Can you see everything that's  
3 going on in the other aisles?

4 A In all of them at the same time, no. But yes, most of the  
5 time I can see what's going on during the day.

6 Q So you can only see what's going on when someone passes  
7 aisle 1, but you can't see what's going on when someone is in a  
8 different aisle?

9 A It's an open area where I can see most of the aisles.

10 Q But not every aisle?

11 A Most of them but not all of them at the same time. I  
12 can't.

13 Q How many aisles are there in the warehouse?

14 A I would have to ask what aisles you're referring to  
15 because we on repack we have three aisles.

16 JUDGE MCCARRICK: I ask about the entire warehouse.

17 THE WITNESS: In the entire warehouse, I wouldn't be able  
18 to tell you. Only on my department, yes.

19 JUDGE MCCARRICK: What other departments are there in the  
20 warehouse?

21 THE WITNESS: Chill, freeze, base, and repack.

22 JUDGE MCCARRICK: And how many aisles in repack?

23 THE WITNESS: There are three, but also three on the top.

24 JUDGE MCCARRICK: How long are the aisles?

25 THE WITNESS: Not that long. It would be the size of from

1 here to there.

2 JUDGE MCCARRICK: I think she's referring to the length of  
3 this room which I would estimate at --

4 THE WITNESS: Yes.

5 JUDGE MCCARRICK: -- 30 feet.

6 THE WITNESS: I was asking you because in our other aisles  
7 where the box stockers are, where they bring the product from.

8 JUDGE MCCARRICK: Is that all in repack?

9 THE WITNESS: Yes.

10 JUDGE MCCARRICK: So how many aisles are there where they  
11 bring the product from?

12 THE WITNESS: There are like seven.

13 JUDGE MCCARRICK: Okay. How long are those aisles?

14 THE WITNESS: Those are longer.

15 JUDGE MCCARRICK: How long are those?

16 THE WITNESS: I don't know the exact measurements, but  
17 they are long.

18 JUDGE MCCARRICK: Are they as long as a football field,  
19 soccer field?

20 THE WITNESS: No.

21 JUDGE MCCARRICK: Okay. As wide as a soccer field?

22 THE WITNESS: No.

23 JUDGE MCCARRICK: So compared to this room here, how long  
24 are the aisles where people bring the product from?

25 THE WITNESS: How long?

1 JUDGE MCCARRICK: Yeah. How long are the aisles?

2 THE WITNESS: Like twice these.

3 JUDGE MCCARRICK: Approximately 60 feet. And did Mr.  
4 Contreras work in those aisles as well?

5 THE WITNESS: They work on those aisles all day, and they  
6 bring the product to repack.

7 JUDGE MCCARRICK: Okay. Can you see Mr. Contreras when he  
8 works in the long aisles?

9 THE WITNESS: I have access or I have sight to three  
10 aisles from where they bring the product.

11 JUDGE MCCARRICK: But there's seven aisles?

12 THE WITNESS: Yes.

13 JUDGE MCCARRICK: So you can't see four of the aisles?

14 THE WITNESS: No, no, not those four.

15 JUDGE MCCARRICK: All right. Go ahead.

16 Q BY MR. RIMBACH: Isn't it true that labor consultants  
17 approached you while you were working?

18 A No. Well, they would pass by, and we'd say hi. But  
19 that's all.

20 Q Isn't it true that they spoke to you about the union?

21 MR. ADLONG: Objection, relevance.

22 JUDGE MCCARRICK: Yeah. What's the relevance of this?  
23 This isn't alleged here in the complaint.

24 MR. RIMBACH: Question withdrawn.

25 Q BY MR. RIMBACH: What time do you take your breaks on May

1 22nd?

2 A I have them at 3:30, the first break.

3 MS. LEE: Sorry, the Interpreter made a mistake.

4 THE WITNESS: At 1:30 the first break; at 3:30 my lunch;  
5 and at 6, my second break.

6 Q BY MR. RIMBACH: Do you take your breaks at the same time  
7 each day?

8 MR. ADLONG: Objection, asked and answered.

9 JUDGE MCCARRICK: I don't recall. I'll allow it.

10 THE WITNESS: What was the question?

11 Q BY MR. RIMBACH: Do you take your breaks at the same time  
12 each day at work?

13 A Yes.

14 MR. RIMBACH: No further questions.

15 JUDGE MCCARRICK: Union have any questions?

16 MS. LEE: I do, but if I could get -- go off the record  
17 for just a minute and talk to my client?

18 JUDGE MCCARRICK: Yeah. Off the record.

19 (Off the record at 9:24 a.m.)

20 JUDGE MCCARRICK: Go ahead, Ms. Lee.

21 **CROSS-EXAMINATION**

22 Q BY MS. LEE: Good morning, Ms. Bravo. My name is Shirley  
23 Lee. I'm the attorney for the Union.

24 A Good morning.

25 Q I have a few questions for you today. I first want to ask

1 you about your job. I believe you said you were a picker  
2 selector or --

3 A Yes.

4 Q And you said earlier today that you worked at a carousel;  
5 is that right?

6 A Yes.

7 Q Okay. Would you please describe what you do?

8 A Yes. Of course. We have to scan the box of the tote when  
9 it arrives. The carousel brings us the product that is needed  
10 on every box. And I'm taking it and I'm putting it in.

11 Q Putting it in another box?

12 A In a box or a tote.

13 JUDGE MCCARRICK: Or in a --

14 MS. LEE: Tote, T-O-T-E. I believe it's a tote.

15 JUDGE MCCARRICK: Tote. Okay.

16 THE WITNESS: Uh-huh.

17 Q BY MS. LEE: The tote is a container?

18 A Yes.

19 Q Okay. So your job is to take product and put it in a box  
20 for a specific order for a client, correct?

21 A Yes.

22 Q And so when you're doing your work, you're not necessarily  
23 looking around the warehouse, are you?

24 A Well, I don't have to have my eyesight fixed on something.  
25 I would have to be moving around. I'm moving around.



1 Q My question is, when you're looking at product and you're  
2 taking it and putting it in a box, you don't know what's going  
3 on in aisle 2, do you?

4 MR. ADLONG: Objection, asked and answered. She just  
5 answered that very question. She told --

6 MS. LEE: It was --

7 JUDGE MCCARRICK: Overruled. Go ahead and answer the  
8 question.

9 THE WITNESS: No. I could see aisle 2 because it's right  
10 next to me, not aisle 3. But I see everything that happens  
11 around me because my eyesight is moving around. I'm --

12 Q BY MS. LEE: But when you're looking at product that  
13 you're about to put in a tote, is one of your eyeballs also  
14 looking at what's going on in aisle 2 and aisle 3 and aisle 1?

15 MR. ADLONG: Objection. It's asked and answered. She  
16 just --

17 JUDGE MCCARRICK: It's cross-examination, counsel. I'll  
18 permit a little bit more leeway than asked and answered on  
19 direct.

20 THE INTERPRETER: May the Interpreter finish the  
21 interpretation of the question.

22 JUDGE MCCARRICK: Please.

23 THE WITNESS: Yes, of course I can do it because I've been  
24 doing this for eight years, and I recognize the product. I  
25 don't have to be staring at the product. I can grab the box

1 and put it without even looking.

2 Q BY MS. LEE: So you're grabbing specific product  
3 including --

4 JUDGE MCCARRICK: Counsel, let's move on.

5 MS. LEE: Okay. Let it --

6 Q BY MS. LEE: How high are these aisles?

7 A It would be the same from here to there.

8 JUDGE MCCARRICK: To the -- to the main ceiling?

9 THE WITNESS: No. To this one.

10 JUDGE MCCARRICK: To the ceiling where the lights are?  
11 Above you?

12 THE WITNESS: Yes.

13 JUDGE MCCARRICK: I guess those were about eight feet,  
14 judging from the door, those like looks eight-doors. Are  
15 aisles separated by shelves?

16 THE WITNESS: Yes.

17 JUDGE MCCARRICK: Kind of like at Costco?

18 THE WITNESS: No, in Costco they're too high.

19 JUDGE MCCARRICK: I understand, but they're loaded with  
20 product similar to Costco?

21 THE WITNESS: Yes.

22 JUDGE MCCARRICK: How wide are these shelves between the  
23 aisles?

24 THE WITNESS: Because I don't understand the question.  
25 You mean the aisle from where we work?

1 JUDGE MCCARRICK: No, the shelves, how wide are the  
2 shelves?

3 THE WITNESS: Let's say the size of the table.

4 JUDGE MCCARRICK: Again, it looks like roughly a six-foot  
5 table.

6 THE WITNESS: Yes, because the product is there.

7 JUDGE MCCARRICK: Go ahead.

8 Q BY MS. LEE: Mr. Contreras, as part of his job, is on a  
9 forklift; isn't that right?

10 A Yes.

11 Q And so as part of his job, while he's on the forklift he  
12 selects boxes from the aisles, correct?

13 A Yes.

14 Q And he moves around from aisle to aisle; isn't that right?

15 A Yes.

16 Q And are you saying on May 22nd, that you knew you were  
17 always watching Mr. Contreras while he was moving around on his  
18 forklift?

19 A I didn't say I was observing him, but that I did see him  
20 most of the day, but I wasn't based on observing him.

21 Q Ms. Bravo, I don't really understand the difference  
22 between you not observing him, but what can -- did see him at  
23 every single minute of your shift?

24 A Not every single minute, no.

25 Q On May 22, where was Mr. Contreras at 12:30 p.m.?

1 A I don't know.

2 Q Do you know if he was working in the aisles?

3 A Probably.

4 Q But you don't know for sure?

5 A No, at that hour, no.

6 Q Do you know where Mr. Contreras was at 1:00 p.m. on the  
7 22nd?

8 A No.

9 Q Do you know where Mr. Contreras was at 5:00 p.m.?

10 A No.

11 Q Do you know if Mr. Contreras took a break that day?

12 A I don't know.

13 Q Do you know if Mr. Contreras went to the bathroom that  
14 day?

15 A No.

16 Q Do you know whether at any time Mr. Contreras left the  
17 repack area during his work shift?

18 A I don't know.

19 MS. LEE: I don't have any further questions.

20 JUDGE MCCARRICK: Redirect?

21 **REDIRECT EXAMINATION**

22 Q BY MR. ADLONG: You testified, Ms. Bravo, that you start  
23 at -- that you worked Thursday and that you took three breaks,  
24 right?

25 A Yes.

1 Q In the repack -- and the entire repack takes breaks at the  
2 same time?

3 A The women, we do take it, not the box stockers.

4 Q Now, you testified that during that time you didn't see  
5 Mr. Negroni talking with Mr. Contreras; is that correct?

6 A That day I didn't see him, no day.

7 Q And on 22nd --

8 MR. ADLONG: No further questions.

9 JUDGE MCCARRICK: Anything further?

10 MR. RIMBACH: Yes, just a couple of questions.

11 **RECROSS-EXAMINATION**

12 Q BY MR. RIMBACH: Ms. Bravo, I'm going to show you what's  
13 been marked for identification as GC Exhibit 7.

14 MR. RIMBACH: I only have one copy right now, but I'll  
15 make further copies when we are able to take a break.

16 MR. ADLONG: Well, we want to see the document before it  
17 goes into evidence.

18 JUDGE MCCARRICK: Yeah, and this seems to go well beyond  
19 redirect.

20 MR. ADLONG: I agree.

21 MR. RIMBACH: It's just with respect to a meeting that  
22 Contreras was at on the 22nd.

23 JUDGE MCCARRICK: I understand that. But it goes well  
24 beyond redirect, goes well beyond the scope, so I'm not going  
25 to permit it. Anything further?

1 MR. RIMBACH: Nothing further.

2 JUDGE MCCARRICK: Union, anything further?

3 MS. LEE: Nothing further.

4 JUDGE MCCARRICK: All right. Ma'am, thank you, you can  
5 step down. Who would you call as your next witness?

6 MR. ADLONG: We are going to get our next witness.

7 JUDGE MCCARRICK: Who is that?

8 MR. ADLONG: Andy Ivey.

9 JUDGE MCCARRICK: Andy?

10 MR. ADLONG: Ivey, I-V-E-Y.

11 JUDGE MCCARRICK: I-V-E-Y. Sir, if you would raise your  
12 right hand.

13 Whereupon,

14 **ANDY IVEY**

15 having been duly sworn, was called as a witness herein and was  
16 examined and testified as follows:

17 JUDGE MCCARRICK: Please be seated, sir. Would you state  
18 your name for the record.

19 THE WITNESS: Full name or just first and last?

20 JUDGE MCCARRICK: First and last.

21 THE WITNESS: First name is Andrew, last name is Ivey.

22 JUDGE MCCARRICK: Spell the last name.

23 THE WITNESS: I-V-E-Y.

24 JUDGE MCCARRICK: Andrew, A-N-D-R-E-W?

25 THE WITNESS: Yes, sir.

1 JUDGE MCCARRICK: Whose witness?

2 MR. LEITZES: My witness, Your Honor.

3 JUDGE MCCARRICK: All right. Go ahead, Mr. Leitzes.

4 **DIRECT EXAMINATION**

5 Q BY MR. LEITZES: Mr. Ivey, my name is Nick Leitzes. I'm  
6 Assistant General Counsel at Unified. So you are a Unified  
7 employee; is that is correct, sir?

8 A Yes, sir.

9 Q Please state your position.

10 A I'm a maintenance technician.

11 Q How long have you been at Unified?

12 A Eight years.

13 Q I'm going to give you a couple of documents here.

14 MR. LEITZES: Number please?

15 JUDGE MCCARRICK: Next in order is 9.

16 MR. LEITZES: So Respondents 9.

17 JUDGE MCCARRICK: Are they be marked?

18 MR. LEITZES: You know, I did not mark them.

19 JUDGE MCCARRICK: You need to mark them. Let's do that  
20 first.

21 MR. LEITZES: Sorry about that.

22 JUDGE MCCARRICK: R-9 is fine.

23 **(Respondent Exhibit Number 9 and 10 Marked for Identification)**

24 MR. LEITZES: This is actually R-9. Let's start with this  
25 one.

1 (Counsel confer)

2 Q BY MR. LEITZES: Have you had a chance to look at the  
3 document, sir?

4 A I'm the one who drafted them, yes.

5 Q All right. Would you please describe what R-9 is?

6 A R-9?

7 Q Yes.

8 A Is it --

9 MS. LEE: Objection, Your Honor, the document speaks for  
10 itself.

11 JUDGE MCCARRICK: I'll allow the witness to answer, go  
12 ahead.

13 THE WITNESS: The signatures of the petition that we  
14 brought up to asking the union to disengage their intents with  
15 us.

16 Q BY MR. LEITZES: Okay. And please tell me what R-10 is.

17 A R-10 is a letterhead stating our intentions, re-  
18 acknowledging, either accepting or denying our request to  
19 withdraw interest.

20 Q And who is -- I see that R-10 is directed -- is mailed or  
21 rather is addressed to Ruben Luna.

22 A Yes, sir.

23 MS. LEE: Objection, relevance, I'm sorry.

24 JUDGE MCCARRICK: We are just identifying the document.

25 MS. LEE: Okay.



1 JUDGE MCCARRICK: There is no objection ripe at that point  
2 until it's offered. Go ahead.

3 Q BY MR. LEITZES: Is that correct, sir?

4 A Yeah. He would have been the point of contact for  
5 anything we were going to give to the union.

6 Q And did you write the letter that is marked as R-10?

7 A R-10, no, me and my wife, we drafted it and brought it to  
8 the format you see.

9 Q And the petition that's marked R-9, did you participate in  
10 gathering the signatures?

11 A Yes, sir.

12 Q And do you know how many signatures are on that petition,  
13 sir?

14 A I want to say 179, 180, probably.

15 Q Okay. Did anyone tell you to do this?

16 A No.

17 Q This petition. Why did you do it, sir?

18 MS. LEE: Objection, relevance.

19 JUDGE MCCARRICK: Sustained.

20 Q BY MR. LEITZES: Could you tell me the method that you  
21 went through to gather the signatures on this petition, sir?

22 MS. LEE: Objection, relevance.

23 JUDGE MCCARRICK: Sustained. What's the purpose of the  
24 document?

25 MR. LEITZES: Well, I think that the door has been opened

1 to the history of the union at Marino Valley. I think the door  
2 has been opened by --

3 JUDGE MCCARRICK: What?

4 MR. LEITZES: Well, they started -- the opening statement  
5 made by the Petitioner stated that, for one thing, Unified is a  
6 repeat offender and does not let the associates communicate  
7 with the union or have their voices heard. This shows that the  
8 voices are attempted to be heard and as a matter of fact this  
9 is a communication directly to the union.

10 JUDGE MCCARRICK: Totally irrelevant to the issues  
11 involved in this case. I won't permit it. You can offer it,  
12 but I'm not to going to receive it into the record. It's  
13 irrelevant to the issues before us.

14 MR. LEITZES: I'm going to offer it, yeah, of course.

15 JUDGE MCCARRICK: You're going to offer what, both?

16 MR. LEITZES: Excuse me, sir? Yes, both.

17 JUDGE MCCARRICK: All right. 9 and 10 are offered and  
18 will be placed in the rejected exhibits file as being  
19 irrelevant to the issues before us.

20 Q BY MR. LEITZES: Did you ever get a response from the  
21 union to this petition that you submitted to them by mail?

22 MS. LEE: Objection, relevance.

23 MS. VALENTINE: Objection.

24 JUDGE MCCARRICK: Sustained.

25 Q BY MR. LEITZES: Who else did you send this letter to,

1 sir?

2 MS. LEE: Objection, relevance.

3 JUDGE MCCARRICK: Sustained.

4 MR. LEITZES: No further questions.

5 JUDGE MCCARRICK: Any questions from General Counsel?

6 MS. VALENTINE: No, Your Honor.

7 JUDGE MCCARRICK: I'm sorry?

8 MS. VALENTINE: No, Your Honor.

9 JUDGE MCCARRICK: From the union?

10 MS. LEE: No, Your Honor.

11 JUDGE MCCARRICK: Sir, you are free to step down.

12 THE WITNESS: Do I leave these or take them?

13 JUDGE MCCARRICK: Why don't you go ahead and leave them  
14 there. All right. Do we have another witness?

15 MR. TOPOLSKI: Your Honor, let's take another recess.

16 JUDGE MCCARRICK: Off the record.

17 (Off the record at 9:50 a.m.)

18 JUDGE MCCARRICK: Go ahead.

19 MR. TOPOLSKI: Thank you, Your Honor. In the interest of  
20 time, we have four other witnesses but the nature of their  
21 testimony is going to be along the lines of Mr. Ivey's, and  
22 that is that the individuals are here to tell the Court about  
23 the fact that they feel like they're not being given a voice to  
24 express views on the unionism and the fact that the persuaders  
25 never said to any of them what the witnesses for the General

1 Counsel are alleging. Based upon how things have gone, we  
2 assume that evidence is not going to be submitted. So we just  
3 want to make an offer of proof for the record.

4 JUDGE MCCARRICK: Go ahead.

5 MR. TOPOLSKI: And let you know that that's what these  
6 witnesses were going to say.

7 JUDGE MCCARRICK: Okay. In addition to the testimony that  
8 Mr. Ivey would have given regarding Respondents 9 and 10, I  
9 wouldn't permit him to testify to the fact that no one else  
10 talked to him. Similarly, to the comments alleged were made to  
11 Mr. Contreras. I wouldn't allow that either.

12 MR. TOPOLSKI: Correct. That's where he was going.

13 JUDGE MCCARRICK: So that the record is clear on that, so  
14 that you make your offer of proof as to those witnesses. I  
15 think you said you had another witness who had a medical issue.

16 MR. TOPOLSKI: Yes, we do. We had planned to call Mr.  
17 Mario Hernandez Galvez. He is the fourth person who was at the  
18 May 16, 2014, meeting with Mr. Urquiza, Mr. Contreras and Mr.  
19 Solario. There's been testimony to the other three, but not  
20 Mr. Hernandez Galvez. I don't think we want to leave the  
21 record open to bring him in, but again I did want to have the  
22 record reflect we intended to call him. He is in Mexico right  
23 now dealing with his wife's medical emergency, so he is not  
24 available and we certainly wouldn't tell him not to be with his  
25 wife during that period of time. And the offer of proof is he

1 would have testified that Mr. Ortiz and Mr. --

2 JUDGE MCCARRICK: I don't think I'll allow an offer of  
3 proof with respect to that. I think what I will do is there  
4 will be no adverse inferences drawn --

5 MR. TOPOLSKI: Thank you.

6 JUDGE MCCARRICK: -- through the absence of his testimony,  
7 given the issue of the medical emergency.

8 MR. TOPOLSKI: Thank you, Your Honor. That's sufficient.

9 JUDGE MCCARRICK: All right. Why don't you make an offer  
10 of proof. Who are the witnesses you were going to call?

11 MR. ADLONG: We were going to Jerome Dowdy, J-E-R-O-M-E,  
12 last name D-O-W-D-Y. The next name is Howard Shelton, H-O-W-A-  
13 R-D, last name, Shelton, S-H-E-L-T-O-N. The next name Joseph  
14 Elder. Do you want me to spell that?

15 JUDGE MCCARRICK: Yes, please.

16 MR. ADLONG: J-O-S.

17 JUDGE MCCARRICK: Just Elder.

18 MR. ADLNG: E-L-D-E-R. And then finally we were going to  
19 call Pete Manrique. Manrique is M-A-N-R-I-Q-U-E.

20 JUDGE MCCARRICK: Okay, and would the testimony be the  
21 same from all of these individuals?

22 MR. TOPOLSKI: Yes, sir, yes, Your Honor. The testimony  
23 would have been that, one, none of them ever saw Lino Contreras  
24 have a one-on-one conversation with Juan Negroni; that, two,  
25 none of them ever heard any of the consultants make any of the

1 complaints like those alleged in the complaint. That is that,  
2 you know, it would be futile to join the union, that is that  
3 people would lose wages if the union came in or that any of  
4 them ever heard of anyone being integrated by any way by any of  
5 the consultants.

6 JUDGE MCCARRICK: Well, this is a little bit different  
7 because, as I say, I wouldn't allow the testimony that they  
8 never heard the consultants make any statements to other  
9 employees.

10 MR. TOPOLSKI: That's what they were going to say.

11 JUDGE MCCARRICK: But the first part, that they never saw  
12 Contreras have a conversation with Negroni is similar to --

13 MR. TOPOLSKI: Ms. Bravo.

14 JUDGE MCCARRICK: Ms. Bravo's testimony.

15 MR. TOPOLSKI: Well, frankly, I think they had less  
16 opportunity to see Mr. Contreras than Ms. Bravo did.

17 JUDGE MCCARRICK: The problem with that is that there  
18 would be -- counsel would have to have an opportunity to cross-  
19 examine and the ability to observe.

20 MR. TOPOLSKI: Then we'll strike that portion of the  
21 offer, how's that?

22 JUDGE MCCARRICK: All right. All right.

23 MR. TOPOLSKI: In all candor with the Court, I don't think  
24 that any of that testimony would add significantly to whether  
25 or not that conversation took place.

1 JUDGE MCCARRICK: Okay. And I think you indicated also  
2 that they were going to testify as Mr. Ivey testified regarding  
3 the petition.

4 MR. TOPOLSKI: That's correct.

5 JUDGE MCCARRICK: That they --

6 MR. TOPOLSKI: They are all signatories to that petition,  
7 that's correct.

8 JUDGE MCCARRICK: Okay.

9 MR. TOPOLSKI: They would have also testified, Your Honor,  
10 that during the meetings the consultants did not vary from the  
11 scripts.

12 JUDGE MCCARRICK: Again, I think that's something I would  
13 have to give counsel an opportunity to --

14 MR. TOPOLSKI: We'll withdraw that.

15 JUDGE MCCARRICK: Okay. All right, anything else in terms  
16 of the offer of proof? No? All right. I'm going to reject  
17 the offer of proof.

18 MS. LEE: Your Honor, could I just get -- because I'm a  
19 little confused about a couple -- could you just kind of  
20 restate what the offer of proof now is?

21 JUDGE MCCARRICK: Well, as I understand it, they would  
22 have testified similar to Mr. Ivey, that there was a petition  
23 to ask the union to withdraw. They signed the petition. And  
24 that they never heard consultants -- the labor consultants that  
25 have been involved in the instant case question or make any

1   alleged 8A01 statements to them.

2           MS. LEE:   We're talking about meetings?

3           MR. TOPOLSKI:   We're talking about --

4           JUDGE MCCARRICK:   We're talking about conversations.

5           MR. TOPOLSKI:   Correct.

6           JUDGE MCCARRICK:   One-on-one conversations I think is what  
7   we're talking about.

8           MR. TOPOLSKI:   Correct.

9           MS. LEE:   Okay.   So those statements -- and that's the one  
10   I was concerned about.   So the offer of proof is that these  
11   witnesses would say that the labor consultants, the three that  
12   we earlier heard from, they would say those three had never  
13   made any 8a01 statements to just them.

14          JUDGE MCCARRICK:   Correct.

15          MS. LEE:   Okay.

16          JUDGE MCCARRICK:   That's my understanding.

17          MR. TOPOLSKI:   Correct.   Nor had they heard --

18          JUDGE MCCARRICK:   Or didn't hear them.   Never heard such  
19   statements made.

20          MS. LEE:   All right.

21          JUDGE MCCARRICK:   That's the offer of proof.

22          MR. TOPOLSKI:   That's the offer, yes, sir.

23          JUDGE MCCARRICK:   And I'm going to reject it on the basis  
24   that it's not relevant.

25          MR. TOPOLSKI:   I appreciate that, Your Honor.   Thank you



1 for the courtesy.

2 JUDGE MCCARRICK: Very good. Any other witnesses?

3 MR. TOPOLSKI: Other than that, I think we're finished.

4 JUDGE MCCARRICK: You rest. Okay. Anything further from  
5 General Counsel or the union?

6 MR. RIMBACH: No, Your Honor.

7 MS. LEE: No, Your Honor.

8 JUDGE MCCARRICK: Let me go off the record and figure out  
9 when briefs are due.

10 (Off the record at 1:03 p.m.)

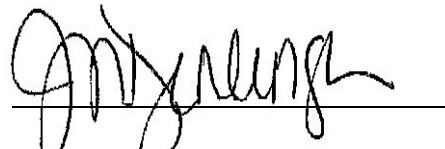
11 JUDGE MCCARRICK: All right. I'll prepare and file with  
12 the Board my decision in this proceeding. Each of the parties  
13 will be served with a copy. I can allow no more than 35 days  
14 initially for the filing of briefs, and that date falls on May  
15 20, which is in the middle of the week. If there is a request  
16 for an extension of time, it needs to be filed with the  
17 Associate Chief Judge in San Francisco, and it obviously will  
18 be referred to me. Any request for extension of time should be  
19 accompanied by a statement from each of the other parties as to  
20 their positions on the request for the extension of time.  
21 There being nothing further, the trial is now closed and we'll  
22 be off the record.

23 **(Whereupon, the hearing in the above-entitled matter was closed**  
24 **at 10:04 a.m.)**

25

C E R T I F I C A T I O N

1  
2 This is to certify that the attached proceedings before the  
3 National Labor Relations Board (NLRB), Region 21, Case Number  
4 21-CA-129446, UNF West Inc., and Teamsters, Chauffeurs,  
5 Warehousemen, Industrial and Allied Workers of America Local  
6 166, International Brotherhood of Teamsters at 12631 Memorial  
7 Way, Moreno Valley, California 92553, on Wednesday, April 15,  
8 2015, at 9:06 a.m. was held according to the record, and that  
9 this is the original, complete, and true and accurate  
10 transcript that has been compared to the reporting or  
11 recording, accomplished at the hearing, that the exhibit files  
12 have been checked for completeness and no exhibits received in  
13 evidence or in the rejected exhibit files are missing.

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16   
17 JACQUELINE DENLINGER

18 Official Reporter  
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